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11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA  
13 SAN FRANCISCO DIVISION  
14

15 CHILDREN'S HEALTH DEFENSE,  
16 a Georgia non-profit organization,

17 Plaintiff,

18 v.  
19

20 FACEBOOK, INC., a Delaware corporation;  
21 MARK ZUCKERBERG, a California resident;  
22 SCIENCE FEEDBACK, a French corporation;  
23 THE POYNTER INSTITUTE FOR MEDIA  
24 STUDIES, INC., a Florida corporation; and  
DOES 1-20,

25 Defendants.  
26  
27  
28

Case No. 3:20-cv-05787-SI

**VERIFIED FIRST AMENDED  
COMPLAINT**

- 1) **FIRST AND FIFTH AMENDMENTS**  
**(BIVENS);**
- 2) **LANHAM ACT (15 U.S.C. § 1125(a));**
- 3) **RICO FRAUD (18 U.S.C. § 1962);**
- 4) **DECLARATORY RELIEF.**

**JURY TRIAL DEMAND**

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11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA  
13 SAN FRANCISCO DIVISION  
14

15 CHILDREN’S HEALTH DEFENSE,  
16 a Georgia non-profit organization,

17 Plaintiff,

18 v.  
19

20 FACEBOOK, INC., a Delaware corporation;  
21 MARK ZUCKERBERG, a California resident;  
22 SCIENCE FEEDBACK, a French corporation;  
23 THE POYNTER INSTITUTE FOR MEDIA  
24 STUDIES, INC., a Florida corporation; and  
DOES 1-20,

25 Defendants.  
26

Case No. 3:20-cv-05787-SI

**VERIFIED FIRST AMENDED  
COMPLAINT**

- 1) **FIRST AND FIFTH AMENDMENTS**  
**(BIVENS);**
- 2) **LANHAM ACT (15 U.S.C. § 1125(a));**
- 3) **RICO FRAUD (18 U.S.C. § 1962);**
- 4) **DECLARATORY RELIEF.**

**JURY TRIAL DEMAND**

1 Plaintiff Children’s Health Defense, by and through its undersigned attorneys, sues  
2 defendants Facebook, Inc., Mark Zuckerberg, Science Feedback, the Poynter Institute for  
3 Media Studies, Inc., and Does 1-20, and for its Verified First Amended Complaint alleges on  
4 personal information as to itself and on information and belief as to all other things:  
5

## 6 **INTRODUCTION**

7 1. This is a case about how an officer and an agency within the U.S. Government  
8 “privatized” the First Amendment by teaming up with Facebook to censor speech which, under  
9 the Bill of Rights, the Government cannot censor. In February 2019, Democratic Congressman  
10 Adam Schiff (D-CA) threatened to introduce legislation to remove Facebook’s immunity under  
11 Section 230 of the Communications Decency Act unless Facebook implemented algorithms to  
12 “distinguish” and suppress so-called “vaccine misinformation” and advertising. The Centers  
13 for Disease Control and Prevention (“CDC”) and, under its aegis, the World Health  
14 Organization (“WHO”) collaborated closely with Facebook to suppress vaccine safety speech  
15 by using a “warning label” and other similar types of notices which, while purporting to flag  
16 misinformation, in reality censor valid and truthful speech, including content posted by  
17 Plaintiff on its Facebook page regarding vaccines. A judicial remedy is urgently required to  
18 redress the damage to Plaintiff Children’s Health Defense (“CHD”) and the abridgement of its  
19 fundamental rights caused by Facebook and its Chairman Mark Zuckerberg’s aggressive and  
20 illegal efforts, embarked upon in response to state pressure and in conjunction with state actors,  
21 to censor and suppress CHD’s posting of material critical of those very state actors and voicing  
22 alternative views concerning the safety and efficacy of vaccines.

23 2. In 17th-century England, government controlled speech through its monopoly on  
24 printing presses. *See* L. Levy, *Emergence of a Free Press* 6 (1985). The first newspapers were  
25 also met by licensing prosecutions of unlicensed news-sheet printers and the power of the  
26 crown to grant privileges of monopoly. *See* F. Siebert, *Freedom of the Press in England 1476-*  
27 *1776* (1965); *see also* 2 J. Story, *Commentaries on the Constitution of the United States*,  
28 § 1882 (5th ed. 1891). Indeed, “history discloses a persistent effort on the part of the British

1 government to prevent or abridge the free expression of any opinion which seemed to criticize  
2 or exhibit in an unfavorable light, however truly, the agencies and operations of the  
3 government.” *Grosjean v. American Press Co.*, 297 U.S. 233, 245 (1936).

4 3. Here, government actors *actively partnered* with one of today’s leading social  
5 media companies, Facebook — an organization whose reach and power vastly exceeds that of  
6 any “printing press” past or present — to censor Plaintiff’s speech concerning important public  
7 health issues and government policy. The framers were familiar with the English struggle and  
8 enacted the First Amendment to establish and preserve the right of the People to full  
9 information about the doings or misdoings of their government. *Grosjean*, 297 U.S. at 247-49.  
10 This case mirrors the framers’ concerns. The censorship of protected speech is not rendered  
11 legal because the government has used and acted in conjunction with Facebook and  
12 Zuckerberg to effect that censorship. On the contrary, the government cannot accomplish  
13 indirectly what the Constitution forbids it to do directly.

14 4. This is also a case involving claims of corporate fraud against Facebook and  
15 Zuckerberg for, *inter alia*, their smear campaign against Plaintiff consisting of false and  
16 misleading content that Facebook itself created and developed (through surrogate “fact-  
17 checkers”) and affixed directly to Plaintiff’s Facebook page — all for the purpose of  
18 stigmatizing CHD and its content regarding vaccines, and discouraging users from accessing  
19 this content. Defendants engaged in multiple acts of fraud and deception in furtherance of their  
20 aggressive and heavy-handed campaign of censorship against Plaintiff’s Facebook page. While  
21 Facebook and Zuckerberg proudly present themselves in public as avatars of free speech and  
22 open debate as the best method for approaching scientific truth, this case reveals the opposite:  
23 that they are indeed censors and opponents of real science and open debate who believe that  
24 they alone are in possession of “truth” and have the right to suppress anyone who disagrees.

25 5. In order to determine this case it is not necessary for the Court to act, and the  
26 Court is not being asked to act, as the ultimate arbiter of scientific truth in the areas of vaccine  
27 safety and 5G technology. Facebook and Zuckerberg have arrogated that power to themselves,  
28 which is precisely what has given rise to their illegal conduct and the causes of action here. It

1 is the essence of the scientific method that conclusions drawn from research and empirical  
2 investigation are tentative and subject to revision.<sup>1</sup> It is Zuckerberg and Facebook that have  
3 weaponized the concept of scientific “fact” in an effort to shut down the differing conclusions  
4 and viewpoint that CHD attempts to voice, and which visitors to CHD’s Facebook website  
5 have a right, and should be permitted, to hear and evaluate for themselves. In sum, it is  
6 Facebook’s dogmatic conclusion (imprinted directly on CHD’s Facebook page) that the  
7 vaccine and 5G issues are susceptible of being labelled definitively “true” or definitively  
8 “false” (by Facebook) that is itself false and misleading. In essence, CHD looks to the Court  
9 not to function as the ultimate arbiter of scientific “truth” or “fact,” but to redress Facebook  
10 and Zuckerberg’s illegal efforts to foreclose and censor what should be open scientific debate,  
11 and to malign and destroy CHD (their ultimate goal) in that effort.

12 6. CHD and its founder Robert F. Kennedy, Jr. (“RFK, Jr.”) have built CHD’s good  
13 name and reputation as a public health advocate for complete candor as to the risks of  
14 environmental toxins, vaccines, 5G and wireless networks, and the conflicts of interest that  
15 have compromised government oversight of those products and services. Plaintiff’s online  
16 reputation is essential to its standing as a preeminent leader in the health reform movement.  
17 CHD seeks \$5 million or more in treble and punitive damages against the Facebook defendants  
18 for their deliberate engagement in a campaign based on false and misleading advertising and  
19 direct censorship in order to damage Plaintiff’s reputation and organization.

20 7. Facebook promotes itself as a social media website with 214 million users in the  
21 United States and 2.2 billion worldwide. Facebook is not cost-free. Its users incur the cost of  
22 having their information mined and shared. *Bass v. Facebook, Inc.*, 394 F. Supp. 3d 1024,  
23 \_\_\_\_\_

24 <sup>1</sup> The history of science and medicine are replete with examples, from Galileo to  
25 Semmelweis, of theories which were vilified and censored in their exponent's lifetimes, only to  
26 find widespread acceptance after their deaths. Such reevaluations and reappraisals are not  
27 uncommon. What is in one period treated as false, even heretical science, may eventually at a  
28 later time gain acceptance as scientific orthodoxy - perhaps, in turn, only to be modified or  
superseded by further discoveries and new ideas. The view that vaccines are not safe for all  
people at all times, despite official orthodoxy, is not too dangerous to air and be heard.

1 1037 (N.D. Cal. 2019). Facebook is sustained by, and its profits are largely due to, massive  
2 advertising — i.e., by selling the value of its users’ attention to other companies that wish to  
3 persuade those users to buy the advertisers’ goods and services. Less well-known, and directly  
4 relevant to this action, are Facebook’s specific efforts as a seller of pharmaceutical ads,  
5 purveyor of global 5G and wireless networks and services, and developer of vaccines through  
6 Zuckerberg’s separate entities. Facebook promotes itself as a service for people “to talk openly  
7 about the issues that matter to them, even if some may disagree or find them objectionable.”  
8 *Community Standards*, FACEBOOK, <https://www.facebook.com/communitystandards/> (last  
9 visited Nov. 12, 2020). It does not say that it will censor and falsely disparage opposing  
10 viewpoints or content that points out the health risks of *those products and technologies*  
11 through material misrepresentation and blatant falsehood. Here, defendants’ deliberate  
12 falsehood is that Plaintiff’s page contains “false information” that poses a “risk of imminent  
13 violence or physical harm.” Nothing could be further from the truth.

14 8. This case arises in a pandemic when the need for public debate on health issues  
15 has never been greater. CHD’s vision is a world free of childhood chronic health conditions  
16 caused by environmental exposures. Plaintiff highlights harms associated with the current  
17 vaccine program, pesticides, and deployment of 5G and other wireless technologies. Although  
18 Zuckerberg’s professed “moon shot mission” is “to cure all disease on the planet within the  
19 Facebook chairman’s children’s lifetimes,” defendants’ first giant leap for humankind is to  
20 censor CHD’s viewpoint, which competes with Facebook’s business plan for pharmaceutical  
21 ad revenue, vaccine development, and 5G and wireless networks.

22 9. Since September 2019, Facebook’s and Zuckerberg’s aggressive censorship  
23 campaign — initiated in response to government pressure and executed in conjunction with  
24 government actors — has falsely denigrated CHD through a “warning label” on CHD’s page,  
25 which conveys a classic false imputation of dishonesty in CHD’s trade. Since March 2019,  
26 with increasing frequency, Facebook and its surrogate self-styled “independent fact-checkers”  
27 (Facebook and Zuckerberg’s Orwellian term for those it has retained, paid for, donated funds  
28 to, trained and directed) have created, developed, and published “false information” tags



1 directly on CHD’s page, which materially misrepresent the accuracy of CHD’s own content.  
2 These techniques of censorship culminated in even more aggressive and blatant acts of  
3 suppression by Facebook and Zuckerberg: the deactivation of CHD’s funding button on its  
4 Facebook page, making it impossible for viewers to donate to CHD; the demotion of CHD’s  
5 content on vaccines and 5G technology; and ultimately Facebook and Zuckerberg’s actual  
6 removal of CHD’s previously “fact-checked” content — an action taken only after this lawsuit  
7 was filed, and in apparent retaliation against CHD for having the temerity to resist Facebook’s  
8 censorship by filing the lawsuit.

9 10. CHD seeks a potent remedy as antitoxin to Facebook’s toxic propagation of the  
10 “known lie [which is] at once at odds with the premises of democratic government and with the  
11 orderly manner in which economic, social, or political change is to be effected.” *Garrison v.*  
12 *Louisiana*, 379 U.S. 64, 75 (1964) (“calculated falsehood [is] no essential part of any  
13 exposition of ideas”); *Abrams v. United States*, 250 U.S. 616, 630 (1919) (Holmes, J.,  
14 dissenting) (“The ultimate good desired is better reached by free trade in ideas -- ... the best  
15 test of truth is the power of the thought to get itself accepted in the competition of the  
16 market”). As explained below, defendants’ conduct violates the First and Fifth Amendments,  
17 constitutes false advertising under the Lanham Act, and is in violation of the RICO statute. Nor  
18 are Zuckerberg or Facebook’s actions shielded or rendered permissible by Section 230 of the  
19 Communications Decency Act. Zuckerberg and Facebook possess enormous power. In their  
20 deliberate, self-interested and self-serving censorship campaign directed at CHD, their abuse of  
21 that power has been egregious. The legal redress sought herein is fully warranted.

### 22 23 **JURISDICTION AND VENUE**

24 11. This Court has personal jurisdiction over all defendants because they conducted  
25 business with and injured Plaintiff in this District. Facebook itself is headquartered within the  
26 District, which is also where the individual and at least some of the Doe defendants reside.

27 12. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal  
28 question), 28 U.S.C. § 1332(a) (complete diversity of the parties, and the amount in

1 controversy exceeds \$75,000), 28 U.S.C. § 2201 (declaratory relief), and 28 U.S.C. § 2202  
 2 (further relief). The action asserts continuing violations of the First and Fifth Amendments, 18  
 3 U.S.C. §§ 1964(a), (c) of the Racketeer Influenced and Corrupt Organizations Act (“RICO”),  
 4 and 15 U.S.C. § 1125(a) (Lanham Act), and there is an actual case or controversy.

5 13. Venue is proper under 18 U.S.C. § 1965(a) and 28 U.S.C. § 1391(b) because  
 6 defendants transacted a substantial portion of their affairs and caused damages in this District.  
 7 Moreover, Facebook’s Terms of Service (“Terms”) to which Plaintiff agreed require that  
 8 disputes be resolved in this forum and that the laws of the State of California apply. Terms at  
 9 ¶ 4(4).

### 10 **PARTIES AND RELATED ENTITIES**

11 14. Plaintiff Children’s Health Defense is a not-for-profit 26 U.S.C. § 501(c)(3)  
 12 membership organization incorporated under the laws of the State of Georgia, and  
 13 headquartered at 1227 North Peachtree Parkway, Suite 202, Peachtree City, Georgia 30269.  
 14 CHD was founded in 2015 (under a different name) to educate the public about the risks and  
 15 harmful effects of chemical exposures upon prenatal and children’s health, including from  
 16 particular vaccines and environmental health hazards, such as 5G and wireless networks and  
 17 products, and to advocate for social change both legislatively and through judicial action. The  
 18 organization is run by RFK, Jr. and a team comprised largely of mothers whose children  
 19 suffered serious adverse events after vaccination.

20 15. As a publisher of information related to public health and reform, CHD operates  
 21 the <https://childrenshealthdefense.org> website, and publishes, *inter alia*, a “weekly wrap up”  
 22 with research articles and opinion pieces available at [https://childrenshealthdefense.org/](https://childrenshealthdefense.org/category/news/childrens-health/)  
 23 [category/news/childrens-health/](https://childrenshealthdefense.org/category/news/childrens-health/). As set forth more fully *infra*, CHD and its founder and  
 24 chairman Robert F. Kennedy, Jr. are not “anti-vaccine<sup>2</sup>.” Rather, they advocate for informed  
 25

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26  
 27 <sup>2</sup> CHD and Robert F Kennedy Jr. are frequently smeared with the term “anti-vax,” in an  
 28 effort to marginalize them as proponents of “fringe-speech.” In truth, they advocate for  
 transparency and tighter safety standards, particularly given the influence of pharmaceutical

1 patient consent based on full disclosure of all relevant medical information. CHD receives all  
2 of its support from contributions, membership fees, and gross receipts from activities related to  
3 its tax-exempt functions. In Tax Year 2018, CHD reported \$1,063,837 in gifts, grants,  
4 contributions, and membership fees received. CHD's primary sources of revenue derive from  
5 membership dues and donations that CHD solicits on its website and, formerly, on its  
6 Facebook page. In addition to that monetary interest, attracting visitors to the CHD website and  
7 its Facebook page enables CHD and RFK, Jr., CHD's contributors, and its readers to associate  
8 and engage in speech on matters of mutual concern. CHD has standing to bring suit as an  
9 injured "person" under 18 U.S.C. § 1964(c).

10 16. Defendant Facebook, Inc. is a Delaware corporation, with its principal place of  
11 business in Menlo Park, California. (At times herein, where Facebook acted on behalf of all  
12 defendants, they are collectively referred to as "Facebook.") Sometime in or around 2017,  
13 CHD executed Facebook's Terms in order to establish and maintain CHD's Facebook page as  
14 a central clearinghouse for CHD's public health newsgathering and advocacy activities, and as  
15 a fundraising platform.

16 17. Defendant Mark Zuckerberg is a co-founder of Facebook, Inc., and at all times  
17 relevant hereto, has served as Facebook's chairman, chief executive officer, and controlling  
18 shareholder. He also co-owns and is co-managing member of the Chan-Zuckerberg Institute,  
19 LLC ("CZI") and Chan-Zuckerberg Biohub, LLC ("CZB"), which are, *inter alia*, for-profit  
20 vaccine developers. He resides in the Northern District of California and is a "person" who  
21 may be sued under 18 U.S.C. § 1961(3). He is sued individually, and under theories of  
22 respondeat superior, alter ego, and agency liability.)

23 18. According to Facebook's 2017 Proxy Statement:

24 Because Mr. Zuckerberg controls a majority of our outstanding  
25 voting power, we are a "controlled company" under the corporate  
26 governance rules of the NASDAQ Stock Market LLC (NASDAQ).

27  
28 companies with large financial interests, statutory immunity from tort liability for vaccine-  
injury, and a record of producing self-interested "research" studies on vaccine safety issues.

1 Therefore, we are not required to have a majority of our board of  
2 directors be independent, nor are we required to have a  
3 compensation committee or an independent nominating function.  
4 In light of our status as a controlled company, our board of  
5 directors has determined not to have an independent nominating  
6 function and to have the full board of directors be directly  
7 responsible for nominating members of our board.

8 19. According to its 2018 Proxy Statement, defendant Zuckerberg has the sole power  
9 to elect or remove any director from Facebook’s Board, as he controls a majority (53.3%) of  
10 Facebook’s total voting shares. Zuckerberg directs and controls Facebook’s business and is  
11 personally and directly responsible for the damages caused by his individual actions, and by  
12 his controlled entities’ misconduct as set forth herein. Facebook and its surrogate “fact-  
13 checker” entities are also sued under principles of alter ego and *respondeat superior* liability.

14 20. Defendant Science Feedback is a French non-profit organization to which  
15 Facebook contributes an undisclosed amount over 5% of its resources, and which Facebook  
16 has engaged as one of its “fact-checker” agents to help Facebook mislead Facebook’s users and  
17 divert them from CHD’s page through a fraudulent scheme by which 1) Facebook flags  
18 selected truthful and interpretive content on CHD’s Facebook page as “false information,”  
19 2) trains, finances, and directs fact-checkers to draft CDC/WHO-based oppositional articles,  
20 and 3) Facebook posts its agent’s content with a grey overlay (like graffiti) over CHD’s  
21 content on CHD’s page.

22 21. Defendant The Poynter Institute for Media Studies, Inc. (“Poynter”) is a Florida  
23 non-profit organization to which Facebook donates both to the parent corporation (Poynter),  
24 and more than 5% of its “fact-checker” branded website’s (“Politifact”) revenue.<sup>3</sup> Facebook  
25 has contracted with Poynter/Politifact as an additional “fact-checker” surrogate under the same  
26 working collaboration described *supra*: Facebook identifies selected content on CHD’s  
27 Facebook page as “false information”; instructs and delegates to Poynter to draft oppositional

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28 <sup>3</sup> On or about January 24, 2018, Poynter filed an application for registration of the  
fictitious name “Politifact” in the State of Florida.

1 articles referencing CDC/WHO publications as “authoritative,” and Facebook maintains  
 2 editorial control over those oppositional articles which it inserts on CHD’s page under a “False  
 3 Information” tag, in order to divert users from CHD’s own content on that false basis.  
 4 Facebook is a major donor to both Poynter and Politifact. *Largest funders of Poynter*, POYNTER  
 5 (last updated June 2020), <https://www.poynter.org/major-funders/>; *Who pays for PolitiFact?*,  
 6 POLITIFACT (last updated June 2020), <https://www.politifact.com/who-pays-for-politifact/>.

7 22. The Facebook corporate and individual defendants conspired with one another,  
 8 and others as yet unknown at Facebook, or elsewhere (the “Doe defendants”) in an informal  
 9 enterprise (the “content management enterprise”) to accomplish their common purposes. Each  
 10 of them was acting within the course and scope of that conspiracy, agency, partnership, or joint  
 11 venture. The acts and conduct of each of the defendants were known to and authorized by, or  
 12 ratified by, the other defendants.

13 23. The informal enterprise operated by defendants had an ascertainable structure  
 14 separate and apart from the pattern of racketeering activity in which the defendants engage,  
 15 and from Facebook, Science Feedback, or Poynter, which are joined as corporate defendants.  
 16 The informal enterprise operated within one or both of those related structures as an  
 17 “enterprise” with a common purpose, structure or organization, and open-ended lifespan  
 18 necessary to accomplish their joint purposes to defraud CHD, destroy its reputation and  
 19 fundraising, and blunt the impact of its public health education and advocacy efforts.

## STATEMENT OF MATERIAL FACTS

### **A. CHD’s Interest in Vaccine and 5G and Wireless Network Safety.**

22 24. Robert F. Kennedy, Jr. is the founder and Chairman of the Board of CHD. For  
 23 over three decades, RFK, Jr. has been one of the world’s leading environmental advocates. He  
 24 is the founder and past president of Waterkeeper Alliance, the umbrella group for 300 local  
 25 waterkeeper organizations, in 34 countries, that track down and sue polluters. Under his  
 26 leadership, Waterkeeper has grown to become the world’s largest clean water advocacy  
 27 organization. RFK, Jr. founded CHD, in part, to address a void in scientific studies of, and  
 28

1 reform advocacy about, the environmental causes of pediatric neuro-developmental disorders  
2 and food allergies.

3 25. Since its founding, CHD has become a leading independent child health  
4 protection and advocacy group. CHD fulfills a vital mission to provide the public with timely  
5 and accurate vaccine and 5G and wireless technology safety information, particularly in the  
6 absence of any appreciable ongoing HHS or CDC research, any congressional oversight to  
7 “reduce the risks of adverse reactions to vaccines,” or any reliable pharmaceutical industry  
8 research, or private tort remedy. *See infra*. CHD’s reputation depends on the credibility of its  
9 science-based research articles, which explore both the known and presently-unknown public  
10 health risks of vaccines and 5G and wireless technology, in the quest for objective truth.

11 26. CHD’s mission is threefold: to end childhood epidemics by eliminating harmful  
12 toxic exposures; to hold those accountable who knowingly allow children to be unnecessarily  
13 exposed to dangerous toxins that destroy their health; and to establish greatly-needed  
14 safeguards to prevent the devastation to children and families that these chronic illnesses cause.  
15 CHD advocates for open and honest public debate on the efficacy and safety of the CDC’s  
16 entire Child and Adolescent Immunization Schedule. CHD helps the public navigate the  
17 “clutter” of the internet age by posting reliable and up-to-date content for its web traffic  
18 viewers. Specifically, CHD publishes articles on its website on a weekly (or more frequent)  
19 basis, which describe current scientific research on the potential health risks posed by various  
20 environmental toxins, new technologies, and vaccines.

21 27. CHD’s science-review articles contain hyperlinks to the referenced peer-  
22 reviewed, published journals. *See generally Research Resources and Critiques*, CHILDREN’S  
23 HEALTH DEFENSE, <https://childrenshealthdefense.org/advocacy-policy/critiques/> (last visited  
24 Aug. 14, 2020). CHD prominently labels opinion pieces as editorials. CHD’s website also  
25 contains a drop-down menu under the tag “Research” with links to its “Science Library.”  
26 CHD’s “Science Library” features a searchable database with hundreds of peer-reviewed,  
27 published articles on environmental contaminants, *inter alia*, of commercial vaccines, some of  
28 which have been implicated in the rise of chronic illnesses and developmental disorders among

1 at-risk children. All abstracts are tagged with keyword links to cross-reference topics.

2 28. CHD’s website also prominently features an “Advocacy/Policy” section down its  
3 right-hand column with hyperlinks to seven headers, the first and most prominent of which  
4 reads “CDC – Corruption, Deceit, and Cover-Up.” That header contains the following  
5 preamble:

6 With the global vaccine market now at tens of billions of dollars,  
7 vaccine safety should be of utmost concern to the Centers for  
8 Disease Control (CDC). But instead, rather than testing and  
9 monitoring the health effects of vaccines and patient injuries  
10 truthfully to the American public and making critical and necessary  
11 corrections in the program, *the CDC has become a mouthpiece for  
industry and has protected the ‘all vaccines for all children’ policy  
despite peer-reviewed science to the contrary.*

12 According to a UPI Investigative article written in the early 2000s,  
13 the CDC owned at least 28 vaccine patents. They are also in charge  
14 of vaccine promotion (getting the public to take vaccines) and  
15 vaccine safety. The CDC, like other large bureaucratic agencies,  
16 also has a revolving door to industry that comes with *inherent  
conflicts of interests*. Common sense should have told us that this  
system was doomed to fail.

17 The documents below, some of which were obtained by the  
18 Freedom of Information Act (FOIA) show *a pattern of deceit*  
19 perpetrated by the CDC on the American public and world stage  
20 for over 25 years. *The Children’s Health Defense believes that  
vaccine safety should be taken from the CDC.*

21 29. CHD’s website also contains hyperlinks to numerous articles that criticize the  
22 CDC and challenge its veracity, with illustrative titles such as: *CDC’s Vaccine ‘Science’ — A  
23 Decades-Long Trail of Trickery; Why You Can’t Trust the CDC on Vaccines; CDC and WHO  
24 Corrupt Financial Entanglements with the Vaccine Industry; Dr. Brian Hooker’s Official  
25 Statement Regarding Vaccine Whistleblower William Thompson; CDC & FDA Committee  
26 Members Have Financial Conflict of Interest with Vaccine Pharmaceuticals; OSC Calls for  
27 Further Review of Whistleblower Disclosures on Zika Testing; CDC Spider Letter; CDC: Off  
28 Center; Real-Life Data Show that the CDC Vaccine Schedule is Causing Harm; Don’t Fall for*

1 *the CDC's Outlandish Lies About Thimerosal; CDC and WHO Corrupt Financial*  
2 *Entanglements with the Vaccine Industry; CDC Lies About, and Media Repeats, Risk of Dying*  
3 *from Measles; CDC's 'Universal' Recommendations for Infant Hep B Vaccine Not Based on*  
4 *Science, But Assumptions; CDC's Infant Hep B Vaccine Recommendations—No Proof of*  
5 *Safety?" See, e.g., CDC and WHO Corrupt Financial Entanglements with the Vaccine*  
6 *Industry* [and other articles], CHILDREN'S HEALTH DEFENSE,  
7 <https://childrenshealthdefense.org/cdc-who/> (last visited Aug. 14, 2020).

8 30. Before publishing its science review articles in its *Kennedy News & Views*  
9 electronic weekly newsletter (recently changed to *The Defender*), CHD conducts an internal  
10 editorial process genuinely to fact-check the text and confirm the cited sources, to ensure that  
11 every article cites sources for every fact it asserts. Otherwise, CHD publishes the article as a  
12 clearly-labeled editorial or opinion piece, where the opinions expressed are not necessarily the  
13 opinions of CHD. Once approved, the article is slotted into the publishing schedule, with  
14 layout on the CHD website, image design, and publication on the website in designated  
15 categories (e.g., child health, toxins), and layout in the newsletter template for emailing  
16 subscribers. CHD checks the accuracy of the article again before emailing it to CHD  
17 subscribers, then alerts its affiliated organizations that the article has published, and finally,  
18 CHD posts the article on its Facebook page, Twitter, Instagram, and YouTube (when  
19 applicable).

20 31. The CHD website offers for sale through its online store, *inter alia*, copies of  
21 James Ottar Grundvig's book, *Master Manipulator: The Explosive True Story of Fraud,*  
22 *Embezzlement, and Government Betrayal at the CDC*, which is described on CHD's website as  
23 "a true story of fraud and betrayal, and an insider's view of what takes place behind the closed  
24 doors of agencies and drug companies, and with the people tasked to protect the health of  
25 American children. It's a cautionary tale of the dangers of blind trust in the government and the  
26 health-care industry." James Ottar Grundvig, *Master Manipulator: The Explosive True Story of*  
27 *Fraud, Embezzlement, and Government Betrayal at the CDC*, Store, CHILDREN'S HEALTH  
28 DEFENSE, <https://childrenshealthdefense.org/store/master-manipulator-the-explosive-true->



1 story-of-fraud-embezzlement-and-government-betrayal-at-the-cdc/ (last visited Aug 14, 2020).

2 32. Similarly, CHD’s “5G and Wireless Harms Project” publishes links to articles  
3 and videos on CHD’s website, which describe the health risks of 5G and wireless networks and  
4 products, and CHD’s advocacy efforts to secure a moratorium on 5G development pending  
5 further scientific research and consensus on that issue. *See, e.g., The 5G Crisis: Awareness &*  
6 *Accountability; Thermal and non-thermal health effects of low intensity non-ionizing*  
7 *radiation: An international perspective; Resistance to 5G: Roadblock to a High Tech Future or*  
8 *Warning of a Serious Health Risk?; What You Should Know About 5G Satellites: How Musk’*  
9 *Sci-Fi Dreams Are Becoming Our Living Nightmare; 5G AirGig: What is It and Should You Be*  
10 *Worried?; 5G/Electromagnetic Fields / Wireless Technologies; Scientists warn of potential*  
11 *serious health effects of 5G; Six Italian Courts Have Ruled that Cell Phones Cause Brain*  
12 *Tumors; The 5G Crisis: Awareness & Accountability*, CHILDREN’S HEALTH DEFENSE (Dec. 21,  
13 2019), <https://childrenshealthdefense.org/video/the-5g-crisis-awareness-accountability/>. CHD  
14 uses a review process comparable to that described *supra* to fact-check these articles and  
15 publish them as peer-reviewed research or labeled opinion, where appropriate. Significantly,  
16 CHD also publishes commentary debunking vaccine and 5G-hypotheses for which CHD has  
17 found no credible scientific evidence. *See, e.g., D. Tachover, CHD Statement on 5G and*  
18 *Coronavirus*, CHILDREN’S HEALTH DEFENSE (Apr. 10, 2020),  
19 <https://childrenshealthdefense.org/news/chd-statement-on-5g-and-coronavirus/>.

20 **B. CHD’s Facebook Page.**

21 33. On or about November, 2017, CHD agreed to Facebook’s Terms to create, and  
22 has since actively maintained, its Facebook page. CHD did so to broaden its internet visibility  
23 and reach, make its online library more widely-accessible, and increase its fundraising  
24 platform. CHD has a current Facebook community of approximately 122,830 followers. CHD  
25 uploads articles or video posts from the CHD website to its Facebook page on a daily (or more  
26 frequent) basis, along with other articles or video posts, and hyperlinks to CHD’s archived  
27 articles of interest to its community. A follower or visitor to CHD’s Facebook page can readily  
28 search the “posts” archive and retrieve all of CHD’s present and past articles concerning, inter

1 alia, the CDC’s conflicts, errors, and omissions.

2 34. CHD’s Facebook page is both reliable and up-to-date, as those terms are  
3 commonly understood. The articles and information that CHD shares with its followers and  
4 the public are science-based and fact-checked before publication on its Facebook page. The  
5 facts cited in every article include linked citations to other published works. Articles submitted  
6 that do not follow that protocol are not published as CHD articles, but rather as editorials  
7 where the opinions expressed are not necessarily the opinions of CHD or *The Defender*. CHD  
8 works with content-writers who are known to CHD to be reliable and trustworthy. CHD’s  
9 editorial process for any article is as follows: idea; article request/written; article submitted,  
10 edited, citations/sources/links checked; website layout; image assigned for article; publish on  
11 website in designated categories (child health, toxins, etc.); article laid out in *The Defender*  
12 newsletter template, then emailed to subscribers. Finally, CHD adds the article to its social  
13 media accounts on Facebook, Twitter, Instagram, and YouTube (if applicable), and emails it to  
14 affiliated publishers. In short, CHD’s internal fact-checking process ensures that all content  
15 that CHD posts to its Facebook page is accurate and well-sourced from credible sources and  
16 peer-reviewed studies.

17 35. As set forth *infra*, CHD did not use its Facebook page to post any content that  
18 breached Facebook’s terms or community standards or was otherwise “unlawful, misleading,  
19 discriminatory or fraudulent.” Terms at ¶ 3(2)(1).

20 36. Under Section 1 of its adhesion contract Terms, Facebook describes its products  
21 and services to include, *inter alia*, “[to] empower you to express yourself and communicate  
22 about what matters to you” and one of those ways to “express yourself” is “adding content to  
23 your profile.” Of its many reserved rights, Facebook notably does *not* retain the right to create  
24 or add its own content to a user’s page, except for a specified reservation for “ads, offers, and  
25 other sponsored content [. . .] which [o]ur partners pay us to show [] to you.” In Section 3(1),  
26 Facebook reiterates that the user “own[s] the content that [the user] create[s] and share[s] on  
27 Facebook[.] [. . .] and nothing in these Terms takes away the rights that [user] have to [their]  
28 own content.” In Section 4(3), Facebook reiterates that “[w]e do not control or direct what

1 people and others do or say, and we are not responsible for their actions or conduct (whether  
2 online or offline) or any content that they share (including offensive, inappropriate, obscene,  
3 unlawful and other objectionable content.”).

4 37. With respect to “harmful conduct,” Facebook’s Terms permit it to “detect misuse  
5 of [its] Products, harmful conduct towards others and situations where [it] may be able to help  
6 support or protect [its] community.” Facebook retains limited rights, e.g., “offering help,  
7 removing content, blocking access to certain features, disabling an account or contacting law  
8 enforcement[.] [and] shar[ing] data with other Facebook companies when [it] detect[s] misuse  
9 or harmful conduct[.]” Here, too, Facebook does not reserve or retain the right to create its own  
10 content on a user’s page. Terms ¶¶ 1, 3(2)(3).

11 38. Facebook’s Terms purport to limit Facebook’s liability “to the fullest extent  
12 permitted by applicable law.” Terms ¶ 4(3). The “applicable law” is California Civil Code  
13 section 1668, which establishes that “[a]ll contracts which have for their object, directly or  
14 indirectly, to exempt anyone from responsibility for his own fraud, or willful injury to the  
15 person or property of another, or violation of law, whether willful or negligent, are against the  
16 policy of the law.”

17 39. On or about August 31, 2020, Facebook purported to amend its Terms ¶ 3.2, to  
18 provide that effective October 1, 2020, Facebook "can remove or restrict access to your  
19 content, services, or information if we determine that doing so is reasonably necessary to avoid  
20 or mitigate adverse legal or regulatory impacts to Facebook."

### 21 **C. The CDC/Facebook Partnership.**

22 40. In 1992, Congress authorized the establishment of the National Foundation for  
23 the Centers for Disease Control and Prevention (“the CDC Foundation”) to support the CDC.  
24 The CDC Foundation was created as a nonprofit private corporation, purportedly not itself an  
25 expressly-designated agency or instrumentality of the Federal Government. 42 U.S.C. §§ 280e-  
26 11(a), (b) (“Public Health Services Act”). The CDC Director may accept and use, on behalf of  
27 the Federal Government, any gift or donation, or any voluntary services from the CDC  
28 Foundation for the purpose of aiding or facilitating the work of the CDC. 42 U.S.C. §§ 280e-

1 11(h)(1), (h)(2)(A). “The CDC Foundation's mission statement is to help CDC ‘do more, faster  
2 by forging effective partnerships between CDC and others to fight threats to health and  
3 safety.’” *H. Rept. 109-510 - Amending the Public Health Service Act with Respect to the  
4 National Foundation for the Centers for Disease Control and Prevention*, 109th Congress  
5 (2005-2006), Committee Reports, CONGRESS.GOV, [https://www.congress.gov/congressional-  
6 report/109th-congress/house-report/510/1](https://www.congress.gov/congressional-report/109th-congress/house-report/510/1) (last visited Nov. 11, 2020).

7 41. The CDC Foundation also demands “deference to the CDC’s final judgment on  
8 all matters of scientific findings, facts or recommendations” as a “characteristic for  
9 collaboration.” *Guiding Principles For Partner Collaboration*, CDC FOUNDATION (2020),  
10 <https://www.cdcfoundation.org/guiding-principles-partner-collaboration> (last visited Nov. 11,  
11 2020).

12 42. The Congressional Research Service recently observed that “[I]t might be  
13 difficult for stakeholders to verify on an ongoing basis that the activities of a quasi-  
14 governmental entity, established by statute and vested with the power to carry out some public  
15 purpose, are directed to the public good rather than private gain without the routine  
16 accountability and transparency provided by this legal framework.” *Agency-Related Nonprofit  
17 Research Foundations and Corporations*, CRS Report, CONGRESSIONAL RESEARCH SERVICE  
18 (Dec. 9, 2019), <https://fas.org/sgp/crs/misc/R46109.pdf>.

19 43. At least one former CDC researcher has put it more bluntly, describing the quasi-  
20 governmental CDC Foundation as a “professional money-laundering facility” (Sheila Kaplan,  
21 *Firm Pays Government to Challenge Pesticide Research*, TYPE INVESTIGATIONS (Mar. 1,  
22 2011), [https://www.typeinvestigations.org/investigation/2011/03/01/firm-pays-government-  
23 challenge-pesticide-research/](https://www.typeinvestigations.org/investigation/2011/03/01/firm-pays-government-challenge-pesticide-research/) (last visited Nov. 11, 2020), and others have alleged that the  
24 CDC Foundation turns pharmaceutical industry monies into recommendations favorable to that  
25 industry, all with the federal government’s seal of approval. *CrossFit Settles Lawsuit with HHS  
26 After Agency Releases Emails Showing Continued Efforts to Conceal Donations*, CROSSFIT  
27 (Nov. 23, 2019), [https://www.crossfit.com/battles/crossfit-settles-lawsuit-with-hhs-after-  
28 agency-agrees-to-release-redacted-emails](https://www.crossfit.com/battles/crossfit-settles-lawsuit-with-hhs-after-agency-agrees-to-release-redacted-emails) (last visited Nov. 11, 2020). Still others have

1 questioned donations made by the Coca-Cola Company to the CDC Foundation for research  
2 and other activities associated with obesity and diet issues. (Sheila Kaplan, *New C.D.C. Chief*  
3 *Saw Coca-Cola as Ally in Obesity Fight*, THE NEW YORK TIMES (Jul. 22, 2017),  
4 <https://www.nytimes.com/2017/07/22/health/brenda-fitzgerald-cdc-coke.html>; Nason Maani  
5 Hessari, Gary Ruskin, and Martin McKee, et al., *Public Meets Private: Conversations Between*  
6 *Coca-Cola and the CDC*, THE MILBANK QUARTERLY, vol. 97, no. 1, pp. 74-90 (2019).

7 44. According to May 15, 2015 staff editorial in the British Medical Journal  
8 (“BMJ”), “Despite the agency’s disclaimer, the CDC does receive millions of dollars in  
9 industry gifts and funding, both directly and indirectly, and several recent CDC actions and  
10 recommendations have raised questions about the science it cites, the clinical guidelines it  
11 promotes and the money it is taking.” The BMJ further described the CDC’s relationship with  
12 private actors, as an example of those private actors’ skill in transforming a regulator into the  
13 vehicle for their own “classic stealth marketing in which industry puts their message in the  
14 mouths of a trusted third party.” Jeanne Lenzer, *Centers for Disease Control and Prevention:*  
15 *protecting the private good?* THEBMJ, BMJ 2015;350:h2362 (May 15, 2015),  
16 <https://www.bmj.com/content/350/bmj.h2362>.

17 45. The BMJ editorial quotes UCLA Professor of Medicine Jerome R. Hoffman:  
18 “Most of us were shocked to learn the CDC takes funding from industry... it is outrageous that  
19 industry apparently is allowed to punish the CDC if the agency conducts research that has the  
20 potential to cut into profits.” Jeanne Lenzer, *Centers for Disease Control and Prevention:*  
21 *protecting the private good?, supra*, THEBMJ, BMJ 2015;350:h2362,  
22 <https://www.bmj.com/content/350/bmj.h2362>.

23 46. In 2014, Zuckerberg personally donated \$25 million to the CDC Foundation’s  
24 Global Disaster Relief Fund through Silicon Valley Community Foundation (“SVCF”), which  
25 runs a donor advised fund for CZI. *CDC Foundation Receives \$25 Million Donation From*  
26 *Mark Zuckerberg And Dr. Priscilla Chan For Ebola Response*, CDC FOUNDATION (Oct. 14,  
27 2014), [https://www.cdcfoundation.org/pr/cdc-foundation-receives-25-million-donation-mark-](https://www.cdcfoundation.org/pr/cdc-foundation-receives-25-million-donation-mark-zuckerberg-and-priscilla-chan-ebola-response)  
28 [zuckerberg-and-priscilla-chan-ebola-response](https://www.cdcfoundation.org/pr/cdc-foundation-receives-25-million-donation-mark-zuckerberg-and-priscilla-chan-ebola-response) (last visited Nov. 12, 2020). In 2020, “in

1 addition to our other donations,” Zuckerberg announced that Facebook would donate \$10  
2 million to the CDC Foundation’s Combat Coronavirus Fundraiser, and \$10 million to the  
3 WHO. The CDC Foundation announced that it would use “the support of Facebook and its  
4 people to help fill gaps and mobilize resources to address fast emerging needs posed by the  
5 virus.” *CDC Foundation Launches Facebook Fundraiser To Benefit Coronavirus Response*  
6 *Efforts, Featuring \$10 Million Facebook Match*, CDC FOUNDATION (Mar. 24, 2020)  
7 <https://www.cdcfoundation.org/pr/2020/Facebook-fundraiser-supports-coronavirus-response>  
8 (last visited Nov. 12, 2020); *Facebook’s \$10 Million Match Helps CDC Foundation Fight*  
9 *Coronavirus*, CDC FOUNDATION (Mar. 24, 2020),  
10 [https://www.cdcfoundation.org/blog/facebooks-10-million-match-helps-cdc-foundation-fight-](https://www.cdcfoundation.org/blog/facebooks-10-million-match-helps-cdc-foundation-fight-coronavirus)  
11 [coronavirus](https://www.cdcfoundation.org/blog/facebooks-10-million-match-helps-cdc-foundation-fight-coronavirus) (last visited Nov. 12, 2020).

12 47. Facebook is a corporate partner of the CDC Foundation and the Silicon Valley  
13 Community Foundation is a foundation partner as well. *Our Partners: Foundations*, CDC  
14 FOUNDATION, <https://www.cdcfoundation.org/partner-list/foundations> (last visited Nov. 12,  
15 2020). The CDC Foundation also receives substantial contributions from the pharmaceutical  
16 industry.

17 48. Facebook is listed as a “partner” on the CDC Foundation’s website under the  
18 “partners” page, although the total amounts of its donations, and those of Zuckerberg  
19 individually or through SVCF, are not publicly-disclosed. *Our Partners: Corporations*, CDC  
20 FOUNDATION, <https://www.cdcfoundation.org/partner-list/corporations> (last visited Nov. 12,  
21 2020).

22 49. CDC’s “*Vaccine With Confidence*” strategic initiative clearly identifies the use  
23 of social media partners to drive vaccine uptake.  
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**Stop Myths**  
 CDC is engaging local messengers and partners to contain the spread of misinformation and ensure key stakeholders have critical information about vaccines.

**New Investments and Partnerships**

- Work with social media companies to promote trustworthy vaccine information
- Provide accurate, accessible information on vaccines to state policy makers
- Engage state and local health officials to advance effective local responses to misinformation

50.

11 *Vaccinate with Confidence*, CDC (Oct. 11, 2019),

12 <https://www.cdc.gov/vaccines/partners/downloads/Vaccinate-Confidently-2019.pdf>.

13 51. The CDC is using Facebook in particular to accomplish its goal of targeting  
 14 health information. “CDC encourages the strategic use of Facebook to effectively and  
 15 inexpensively reach individuals with personalized and targeted health information.” *Social*  
 16 *Media at CDC*, Tools / Facebook, CDC, <https://www.cdc.gov/socialmedia/tools/facebook.html>  
 17 (last visited Nov. 12, 2020). “Facebook, as with other social media tools, is intended to be part  
 18 of a larger integrated health communications strategy or campaign developed under the  
 19 leadership of the Associate Director of Communication Science (ADCS) in the Health  
 20 Communication Science Office (HCSO) of CDC’s National Centers, Institutes, and Offices  
 21 (CIOs).” *Social Media at CDC*, Guidelines & Best Practices / Facebook Guidelines and Best  
 22 Practices, CDC, <https://www.cdc.gov/socialmedia/tools/guidelines/facebook-guidelines.html>.  
 23 (last visited Nov. 12, 2020).

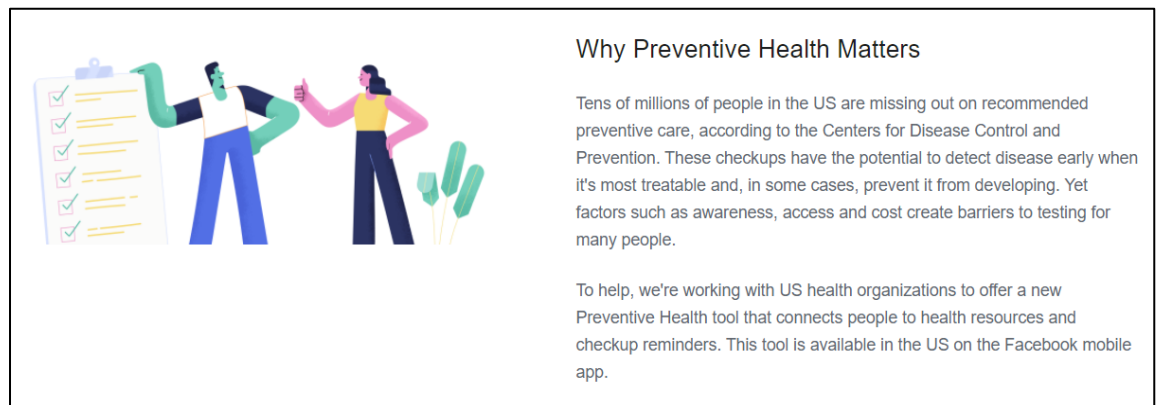
24 52. Zuckerberg has stated publicly that Facebook is working with both the CDC and  
 25 the WHO: “We work with the [Centers for Disease Control and Prevention] and we work with  
 26 the [World Health Organization] and trusted health organizations to remove clear  
 27 misinformation about health-related issues that could cause an imminent risk of harm.”  
 28

1 *AXIOS on HBO: Mark Zuckerberg on Misinformation* [Video], HBO,  
2 <https://www.youtube.com/watch?v=E5yyInwI7tw> (last visited Nov. 12, 2020).

3 53. In mid-October 2020, Facebook updated its internal public health partnership  
4 strategy. It is now working even more closely with the CDC to meet ostensible public health  
5 goals including pushing for flu vaccine uptake, and laying the groundwork for pushing  
6 COVID-19 vaccine uptake when available.

7 54. For example, Facebook recently launched a new public health app, “*Preventive*  
8 *Health*,” which connects people to public health authority resources. Facebook acknowledges  
9 it has partnered with the CDC in its development of the app.

10 55. “ ‘Preventive Health’ is a new tool on Facebook that connects people to health  
11 resources and checkup recommendations from leading health organizations.”



19 56. *Connecting People With Health Resources*, FACEBOOK, <https://preventivehealth.facebook.com/>  
20 (last visited Nov. 12, 2020).

21 57. Facebook’s “Preventive Health” App will provide reminders to people to take  
22 vaccines, and directly implements a public health strategy recommended by the CDC for  
23 increasing vaccination coverage in adults. “Starting today, Facebook will let users choose to  
24 get personalized reminders about health care tests and vaccines.” Mary Beth Griggs,  
25 *Facebook’s new Preventive Health tool pushes people to advocate for their health*, THE VERGE  
26 (Oct. 28, 2019), [https://www.theverge.com/2019/10/28/20936541/facebook-preventative-](https://www.theverge.com/2019/10/28/20936541/facebook-preventative-health-cancer-heart-disease-flu-tool)  
27 [health-cancer-heart-disease-flu-tool](https://www.theverge.com/2019/10/28/20936541/facebook-preventative-health-cancer-heart-disease-flu-tool). The reminder system was proposed by the CDC and  
28 implemented by Facebook as a way to increase adult vaccination that can reach a large part of



1 the populace. Additionally, there is the potential for monetization as the app functions as a  
2 digital platform where new vaccines and FDA-approved treatments can be promoted to a wide  
3 audience. *Adult Vaccination Resources, Vaccines for Adults*, CDC,  
4 <https://www.cdc.gov/vaccines/hcp/adults/for-practice/reminder-sys.html> (last visited Nov. 12,  
5 2020).

6 58. This rollout furnishes additional evidence of a close and ongoing working  
7 relationship between the CDC and Facebook both to encourage universal vaccination, and by  
8 reasonable inference, to censor, flag, or demote contrary views. The CDC and (with the CDC's  
9 express consent) the WHO have worked closely with Facebook to determine what features  
10 would be appropriate on Facebook's platform, what information to censor, and which groups,  
11 such as CHD, to demonetize. CHD requires process to ascertain, *inter alia*, whether or to what  
12 extent the CDC and WHO themselves have flagged specific CHD content on Facebook's  
13 platform for Facebook to remove, demote, or fact-check. *See, e.g., Social media giants agree*  
14 *package of measures with UK Government to tackle vaccine disinformation*, GOV.UK (Nov. 8,  
15 2020), [https://www.gov.uk/government/news/social-media-giants-agree-package-of-measures-](https://www.gov.uk/government/news/social-media-giants-agree-package-of-measures-with-uk-government-to-tackle-vaccine-disinformation)  
16 [with-uk-government-to-tackle-vaccine-disinformation](https://www.gov.uk/government/news/social-media-giants-agree-package-of-measures-with-uk-government-to-tackle-vaccine-disinformation) (Facebook accepting direction and  
17 command – including content flagged to them by the government -- directly from U.K. public  
18 officials to censor critical information and publish approved information relating to  
19 Coronavirus vaccine).

20 59. In these and other nonobvious ways, including with respect to Facebook's  
21 censorship of CHD's COVID-19-related posts, the CDC has entered into an ongoing symbiotic  
22 relationship with Facebook, which substantially benefits the government's and social media  
23 giant's policies and priorities. As alleged *infra*, the CDC has given Facebook its imprimatur to  
24 implement CDC/WHO-preclusive algorithms under a joint understanding to censor, flag,  
25 and/or demote CHD's posts critical of the CDC generally, and/or its vaccine recommendations  
26 specifically, and damage or destroy CHD's capacity to sustain itself financially.

27 ///

28 ///

1           **D. Defendants’ Scheme to Defraud.**

2           **1. Overview.**

3           60. On February 14, 2019, Rep. Schiff wrote a public letter addressed to Zuckerberg  
4 “[a]s a Member of Congress who is deeply concerned about declining vaccination rates around  
5 the nation,” pointedly urging that Facebook implement specific algorithms to identify, censor  
6 and remove all so-called “vaccine misinformation,” and reject all paid advertising from the  
7 sources of such “misinformation.” *Schiff Sends Letter to Google, Facebook Regarding Anti-*  
8 *Vaccine Misinformation*, News/Press Releases, CONGRESSMAN ADAM SCHIFF (Feb. 14, 2019),  
9 [https://schiff.house.gov/news/press-releases/schiff-sends-letter-to-google-facebook-regarding-](https://schiff.house.gov/news/press-releases/schiff-sends-letter-to-google-facebook-regarding-anti-vaccine-misinformation)  
10 [anti-vaccine-misinformation](https://schiff.house.gov/news/press-releases/schiff-sends-letter-to-google-facebook-regarding-anti-vaccine-misinformation).

11           61. The term “vaccine misinformation” (as Rep. Schiff defined it, and as Facebook  
12 implemented it) is a euphemism for *any* expression of skepticism toward government and  
13 industry pronouncements about vaccine safety and efficacy, or of reasons why parents or their  
14 children’s physicians might decline to follow the CDC’s full “recommended vaccine  
15 schedule,” regardless of whether those expressions are true or not. Thus, Rep. Schiff provided  
16 a substantive standard — deference to CDC/WHO pronouncements conclusively presumed to  
17 be “authoritative” — by which Facebook should identify and censor vaccine “misinformation”  
18 on its platform. The term “vaccine misinformation” does not, for example, include erroneous,  
19 misinformed or fraudulent statements made by pharmaceutical companies, or the CDC, to  
20 promote vaccines.

21           62. Rep. Schiff wrote, “I acknowledge that it may not always be a simple matter to  
22 determine when information is medically accurate, nor do we ask that your platform engage in  
23 the practice of medicine.” Yet, that is precisely what Rep. Schiff asked Facebook to do, and  
24 this case shows the resulting harms from government engaging with a social media platform to  
25 arbitrate scientific truth in that manner.

26           63. Rep. Schiff ended his public letter to Zuckerberg:

27           Specifically, I request that you provide answers on the following  
28           questions:

- 1 (1) Does content which provides medically inaccurate information  
2 about vaccines violate your terms of service?
- 3 (2) What action(s) do you currently take to address misinformation  
4 related to vaccines on your platforms? Are you considering or  
5 taking additional actions?
- 6 (3) Do you accept paid advertising from anti-vaccine activists and  
7 groups on your platforms? How much has been spent in the past  
8 year on advertising on this topic?
- 9 (4) What steps do you currently take to prevent anti-vaccine videos or  
10 information from being recommended to users, either  
11 algorithmically or as a suggested search result?

12 I appreciate your timely response to these questions and encourage  
13 you to consider what additional steps you can take to address this  
14 growing problem. As more Americans rely on your services as  
15 their primary source of information, it is vital that you take that  
16 responsibility with the seriousness it requires, and nowhere more so  
17 than in matters of public health and children’s health. Thank you  
18 for your attention to this important topic.

19 Id.

20 64. Rep. Schiff’s pointed questions and requests clearly express his own definite  
21 position on the science, and his expectation that Facebook and Zuckerberg would adhere to and  
22 implement policies consistent with that position. On information and belief, Zuckerberg met  
23 personally with Rep. Schiff subsequently to discuss, *inter alia*, Facebook’s compliance with  
24 Rep. Schiff’s February 14, 2019 public letter and press release, and those specific standards  
25 which were or would be used to identify and censor vaccine “misinformation.” At the same  
26 time and subsequently, in his role as Chairman of the House Intelligence Committee, Rep.  
27 Schiff stated publicly that Congress could or should “make changes to” the law that does not  
28 currently hold social media companies liable for third-party content on their platforms. *See*,  
*e.g.*, *Hearing by Congress on "deepfakes" and artificial intelligence* [Video], GUARDIAN NEWS  
(June 13, 2019), <https://www.youtube.com/watch?v=lArPEDS0GTA>. Rep. Schiff told  
reporters that, “if the social media companies can’t exercise a proper standard of care when it  
comes to a whole variety of fraudulent or illicit content, then we have to think about whether

1 that immunity still makes sense. These are not nascent industries or companies that are  
2 struggling for viability; they're now behemoths, and we need them to act responsibly." K.  
3 Waddell, *A new attack on social media's immunity*, AXIOS (June 13, 2019),  
4 [https://www.axios.com/social-media-immunity-section-230-f15ac071-32e9-4e33-81e6-](https://www.axios.com/social-media-immunity-section-230-f15ac071-32e9-4e33-81e6-4c7ebadaea5e.html)  
5 [4c7ebadaea5e.html](https://www.axios.com/social-media-immunity-section-230-f15ac071-32e9-4e33-81e6-4c7ebadaea5e.html).

6 65. On March 4, 2019, Lyn Redwood, CHD President, sent a 9-page letter addressed  
7 to "Mark Zuckerberg, Chairman and Chief Executive Officer, Facebook Inc., 1 Hacker Way,  
8 Menlo Park, CA 94025" and offered in rebuttal of Representative Schiff's letter. From his  
9 public statements and adverse motives, *see infra*, it may be reasonably inferred that Zuckerberg  
10 was personally and directly involved in decisions and actions which Facebook took to censor  
11 and/or "fact-check" CHD's individual posts, and knowingly mislead users about the  
12 truthfulness of CHD's posts, and on the CHD account level, deliberately mislead users about  
13 CHD's page's reliability, and remove its advertising and fundraising tools. Zuckerberg and/or  
14 the Doe defendants responsible for those actions either read CHD's March 4, 2019 letter or  
15 rejected it without reading, but in either event, they did no investigation of it and proceeded  
16 within days to publish their warning label and "fact-checks" with a "high degree of awareness  
17 of ... probable falsity," "serious doubts," or "reckless disregard" as to [their] truth. *Harte-*  
18 *Hanks Commc'ns Inc. v. Cunningham*, 491 U.S. 657, 667 (1989).

19 66. Because it is highly relevant to Plaintiff's claims, the letter is quoted extensively  
20 here, and attached to this Complaint as Exhibit "A." CHD's letter explains its position with  
21 respect to vaccine safety and Facebook's role as content moderator, as follows:

22 We, too, are highly concerned that the public is being misinformed  
23 about vaccines, and we agree that Facebook could play a positive  
24 role in helping to resolve this problem. *But we strongly disagree*  
25 *that the means by which Facebook can do so is by preventing users*  
26 *from seeing information that calls into question government*  
27 *policies related to vaccinations. On the contrary, the means by*  
28 *which Facebook can help empower people to make an informed*  
*choice is to facilitate a free market of ideas and let users determine*  
*for themselves the value of content that appears in their newsfeeds.*

1 [Representative Schiff’s] true criterion for determining what  
2 information constitutes a “threat” is not whether it is truthful and  
3 accurate, but whether or not it accords with the goal of achieving  
4 high vaccination rates. [. . .] an implicit assumption underlying Mr.  
5 Schiff’s criterion for determining what constitutes  
6 “misinformation” is that the CDC is infallible in its vaccine  
7 recommendations. We emphatically disagree and must reject this  
8 assumption as totally illogical and unscientific.

9 Mr. Schiff would have you take steps to prevent “vaccine  
10 misinformation” from proliferating, but who is to decide what  
11 constitutes misinformation? Which party to the debate can claim a  
12 monopoly on truth? [. . .] Efforts to stifle discussion and debate  
13 about such an important issue constitute a serious threat to both our  
14 health and our liberty.

15 The statement assumes that all vaccines are safe and effective for  
16 everybody, but what there is a scientific consensus about is that  
17 that is absolutely not true. Indeed, it is meaningless to treat  
18 “vaccines” as a product concept when speaking in terms of safety  
19 and effectiveness because each vaccine has a different profile.  
20 There is a risk-benefit analysis that must be done for each one. Not  
21 all vaccines are considered safe. Not all are considered effective. In  
22 the scientific literature, there is a great deal of uncertainty and  
23 debate about the safety and effectiveness of individual vaccines, as  
24 well as their combined effects and the long-term consequences of  
25 vaccinating children according to the CDC’s schedule.

26 [. . .]

27 *Increasingly, we are learning from scientific research that there*  
28 *are opportunity costs associated with vaccination. [. . .] It is a great*  
*cause for concern that public health officials simply do not take*  
*such opportunity costs into consideration when formulating public*  
*vaccine policies.*

In addition to disregarding the variable profile of each vaccine, Mr. Schiff’s statement ignores the variability in children’s responses to vaccinations. The risk-benefit must be conducted for each vaccine and for every individual child. Not every child is at the same risk from a given infectious disease. Not every child will have the same immune response to a vaccine intended to prevent that disease. And

1 not every child is at the same risk of harm from the vaccine. That  
2 there are subpopulations of children who are at higher risk of being  
3 killed or permanently injured by vaccines is well recognized within  
the scientific community.

4 [. . .]

5  
6 Unfortunately, the public health objective of achieving high  
7 vaccination rates is not necessarily conducive to the objective of  
8 improving public health, and the same cognitive dissonance evident  
9 in the FDA’s remark is reflected in Mr. Schiff’s objection to  
10 information being shared on Facebook that isn’t conducive to the  
government’s goal of persuading or coercing parents through  
11 mandates to strictly comply with the CDC’s routine childhood  
vaccine schedule.

12 Certainly, to inform parents about this compensation program and  
13 the legal immunity for vaccine manufacturers might cause them to  
14 think twice about vaccinating their children. Contrary to Mr.  
Schiff’s criterion, it does not follow that they shouldn’t be  
informed.

15 [. . .]

16 The CDC itself is a leading purveyor of misinformation about  
17 vaccines. For example, a literature review by the prestigious  
18 Cochrane Collaboration on the safety and effectiveness of the  
19 influenza vaccine concluded that the fundamental assumptions  
20 underlying the CDC’s universal flu shot recommendation are  
21 unsupported by the scientific evidence and, furthermore, that the  
CDC has deliberately misrepresented the science in order to  
support its policy.

22 [. . .]

23  
24 So, if Facebook is going to start preventing the spread of vaccine  
25 misinformation, is it going to block links to pages from the CDC’s  
website wherein such dangerously misleading claims are made?

26 [. . .]

27  
28 To sum up, there is indeed a serious problem today with respect to  
the propagation of misinformation about vaccines, but there are no

1 greater purveyors of vaccine misinformation than the government  
2 and corporate news media. *It is entirely inappropriate for elected*  
3 *government officials to be instructing media companies to censor*  
4 *criticism of entire categories of pharmaceutical products.*

5 [. . .]

6 Without prejudice to your company’s right to determine your  
7 service’s own terms of use, we believe that respect for this human  
8 right is the value that Facebook should be upholding, along with  
9 the right to informed consent, which is one of the most  
10 fundamental ethics in the practice of medicine.

11 A true and correct copy of the letter is attached as Exhibit “A” hereto. *Letter to Facebook,*  
12 *CHILDREN’S HEALTH DEFENSE* (Mar. 4, 2019), [https://childrenshealthdefense.org/wp-](https://childrenshealthdefense.org/wp-content/uploads/FINAL-CHD-Letter-to-Facebook-1.pdf)  
13 [content/uploads/FINAL-CHD-Letter-to-Facebook-1.pdf](https://childrenshealthdefense.org/wp-content/uploads/FINAL-CHD-Letter-to-Facebook-1.pdf) (emphases added).

14 67. Nonetheless, Facebook conducted no investigation whatsoever to confirm or  
15 refute the material facts asserted in CHD’s March 4, 2019 letter. Rather, Facebook and  
16 Zuckerberg personally determined that the course of action Rep. Schiff actively encouraged —  
17 to work and act in concert with individuals or officers at the CDC and WHO, to implement  
18 algorithms to identify any posts critical to CDC/WHO-pronouncements — would assist  
19 Facebook to avoid any legislative rollback of “service provider” immunity from liability under  
20 the Communications Decency Act (“CDA”), 47 U.S.C. § 230(c)(1). The close sequence of  
21 events which followed closely upon Rep. Schiff’s letter to Zuckerberg suggest that Schiff’s  
22 pointed requests had an immediate effect on Facebook and that Zuckerberg had determined  
23 that it was in Facebook’s interests to cooperate with the government.

24 68. On March 7, 2019, Monika Bickert, Facebook’s Vice President for Global Policy  
25 Management, issued an online press release stating that:

26 We are working to tackle vaccine misinformation on Facebook by  
27 reducing its distribution and *providing people with authoritative*  
28 *information on the topic.* We are starting by taking a series of steps:  
We will reduce the ranking of groups and Pages that spread  
misinformation about vaccinations in News Feed and Search.

1 These groups and Pages will not be included in recommendations  
2 or in predictions when you type into Search.

3 When we find ads that include misinformation about vaccinations,  
4 we will reject them. We also remove related targeting options, like  
5 “vaccine controversies.” For ad accounts that continue to violate  
6 our policies, we may take further action, such as disabling the ad  
7 account.

8 We won’t show or recommend content that contains  
9 misinformation about vaccinations on Instagram Explore or  
10 hashtag pages.

11 We are exploring ways to share educational information about  
12 vaccines when people come across misinformation on this topic.

13 **Update on April 26, 2019 at 10AM PT:** We may also remove  
14 access to our fundraising tools for Pages that spread  
15 misinformation about vaccinations on Facebook.

#### 16 How This Will Work

17 Leading global health organizations, such as the World Health  
18 Organization and the US Centers for Disease Control and  
19 Prevention, have publicly identified verifiable vaccine hoaxes. If  
20 these vaccine hoaxes appear on Facebook, we will take action  
21 against them.

22 For example, if a group or Page admin posts this vaccine  
23 misinformation, we will exclude the entire group or Page from  
24 recommendations, reduce these groups and Pages’ distribution in  
25 News Feed and Search, and reject ads with this misinformation.

26 We also believe in providing people with additional context so they  
27 can decide whether to read, share, or engage in conversations about  
28 information they see on Facebook. We are exploring ways to give  
people more accurate information from expert organizations about  
vaccines at the top of results for related searches, on Pages  
discussing the topic, and on invitations to join groups about the  
topic. We will have an update on this soon.



1 We are fully committed to the safety of our community and will  
2 continue to expand on this work.

3 *Combating Vaccine Misinformation*, FACEBOOK, [https://about.fb.com/news/2019/03/](https://about.fb.com/news/2019/03/combating-vaccine-misinformation)  
4 *combating-vaccine-misinformation* (last visited Aug 14, 2020) (emphases added).

5 69. On September 4, 2019, the WHO Director-General issued a public statement that  
6 it “welcomes the commitment by Facebook to ensure that users find facts about vaccines  
7 across Instagram, Facebook Search, Groups, Pages and forums where people seek out  
8 information and advice. *Facebook will direct millions of its users to WHO’s accurate and*  
9 *reliable vaccine information in several languages, to ensure that vital health messages reach*  
10 *people who need them the most. The World Health Organization and Facebook have been in*  
11 *discussions for several months to ensure people can access authoritative information on*  
12 *vaccines and reduce the spread of inaccuracies on Facebook and Instagram.” Vaccine*  
13 *Misinformation: Statement by WHO Director-General on Facebook and Instagram*, WORLD  
14 HEALTH ORGANIZATION (Sept. 4, 2019), [https://www.who.int/news-room/detail/04-09-2019-](https://www.who.int/news-room/detail/04-09-2019-vaccine-misinformation-statement-by-who-director-general-on-facebook-and-instagram)  
15 *vaccine-misinformation-statement-by-who-director-general-on-facebook-and-instagram*  
16 (emphases added). The WHO Director-General’s public statement strongly suggests that the  
17 WHO has been directly involved in defining what constitutes “vaccine misinformation” for  
18 Facebook. It also implies that the WHO has provided input regarding what exact features may  
19 be most effective. The CDC’s active, if “nonobvious” involvement in Facebook’s conduct may  
20 be reasonably inferred. CHD requires process to identify the government officials who  
21 participated in these pre-roll out discussions with Facebook, and the standards and practices  
22 which they discussed or agreed upon, and other facts and circumstances of the “non-obvious  
23 involvement of the State in private conduct” of Facebook and Zuckerberg. *Burton v.*  
24 *Wilmington Parking Authority*, 365 U.S. 715, 722 (1961). At all times relevant hereto, the  
25 United States was a member of the WHO, a United Nations specialized agency. Notably, under  
26 Article 71 of its Constitution, the WHO may only consult and cooperate with non-  
27 governmental national organizations *with the consent of the Government concerned. Basic*  
28 *Documents*, WORLD HEALTH ORGANIZATION (49<sup>th</sup> Ed. 2020),

1 [https://apps.who.int/gb/bd/pdf\\_files/BD\\_49th-en.pdf#page=1](https://apps.who.int/gb/bd/pdf_files/BD_49th-en.pdf#page=1). In light of their public  
2 statements and close affiliation on matters relating to vaccines, it is reasonable to infer that the  
3 CDC was the responsible federal agency which gave the WHO its consent on behalf of the  
4 U.S. Government to actively collaborate with Facebook. Plaintiff requires process to confirm  
5 that the CDC gave its consent to the WHO's formation of its private-public partnership with  
6 Facebook, and that the CDC itself participated in other non-obvious ways.

7 70. The same day, September 4, 2019, that the WHO publicly lauded its close  
8 collaboration with Facebook to “ensure people can access authoritative information [] and  
9 reduce the spread of inaccuracies,” Facebook synchronously published a “Warning Label” in  
10 bold black letters at the top of CHD's Facebook page, which states:

11 **This Page posts about vaccines**

12 **When it comes to health, everyone wants reliable, up-to-date**  
13 **information. The Centers for Disease Control (CDC) has**  
14 **information that can help answer questions you may have**  
15 **about vaccines.**

16 **Go to [CDC.gov](https://www.cdc.gov)**

17 71. Both before and after September 4, 2019, Facebook also implemented a “fact-  
18 checking” campaign concerning content on Plaintiff's page, in further coordination with the  
19 CDC and WHO, designed to materially misrepresent Plaintiff's content. Thus, Facebook killed  
20 two birds with one stone: Facebook delivered what Rep. Schiff had forcefully requested — the  
21 “vaccine misinformation” campaign — which in turn would help it achieve the continued  
22 preservation of its desired Section 230 immunity. At the same time, Rep. Schiff's demand  
23 provided Facebook with cover for its own ulterior business motives, and pretext to launch its  
24 own fraudulent scheme to cause reputational harm and financial loss to CHD, and illicit gain to  
25 Facebook, by means of false representations and knowingly false suggestions. For Zuckerberg  
26 and the other defendants, this was a classic “win-win” proposition.

27 72. In perpetrating its fraud scheme, Facebook's modus operandi was to treat any  
28 information that does not advance the CDC and WHO's policy goal of maintaining or

1 increasing vaccination rates as “false,” “fake,” “misinformation,” or “hoax,” irrespective of its  
2 objective truth or the fact that it constitutes or qualifies as opinion. Facebook treats even the  
3 view that parents have a right to informed consent, one of the most fundamental ethics in  
4 medicine, as censorable “misinformation.” Any information related to the risks of vaccination,  
5 no matter how well-grounded in science, is labeled and censored as “misinformation.”  
6 Facebook then trained its technical means and methods on identifying and eliminating all such  
7 content under the banner of “falsity.” By contrast, Facebook broadly incorporates and  
8 promotes the CDC and WHO’s policy pronouncements on these issues as established “fact.”  
9 *Combating Vaccine Misinformation*, FACEBOOK, *supra*, [https://about.fb.com/news/2019/03/](https://about.fb.com/news/2019/03/combating-vaccine-misinformation)  
10 [combating-vaccine-misinformation](https://about.fb.com/news/2019/03/combating-vaccine-misinformation).

11 73. The Merriam-Webster Dictionary defines “misinformation” as “incorrect or  
12 misleading information,” and defines “information” as “(1) knowledge obtained from  
13 investigation, study, or instruction; (2) intelligence, news; (3) facts, data.” *Information*,  
14 *Merriam-Webster.com*, <https://www.merriam-webster.com/dictionary/information> (last visited  
15 Aug. 14, 2020). Facebook’s charge that Plaintiff’s content is “false information” conveys to  
16 third-party users that it is demonstrably, provably false.

17 74. Additionally, on May 21, 2020, Zuckerberg reportedly stated that “misleading  
18 conspiracy theories around 5G on Facebook pose a risk of immediate physical harm” and that  
19 his Facebook “team is working urgently to remove dangerous and deadly ‘fake news’ posts  
20 about 5G.” He added that, “5G misinformation [] has led to some physical damage of 5G  
21 infrastructure. So we believe that that is leading to imminent risk of physical harm. We take  
22 down that content.” S. Keach, *Facebook’s 5G fake news poses ‘risk of immediate physical*  
23 *harm’, Zuckerberg warns*, IRISH SUN (May 21, 2020), [https://www.thesun.ie/tech/5453017/](https://www.thesun.ie/tech/5453017/facebook-5g-fake-news-mark-zuckerberg-physical-harm-masts-burning/)  
24 [facebook-5g-fake-news-mark-zuckerberg-physical-harm-masts-burning/](https://www.thesun.ie/tech/5453017/facebook-5g-fake-news-mark-zuckerberg-physical-harm-masts-burning/). In other words,  
25 Facebook takes the position that incidents of protestors (who have no connection with CHD)  
26 burning telephone poles with 5G transmitters constitutes an “imminent risk of physical harm”  
27 sufficient to warrant blocking CHD’s 5G safety content, irrespective of its truth. Thus, for  
28 Zuckerberg’s own profit, caprice, or ill will, *see infra*, Facebook untethers the “clear and

1 present danger” standard from any recognizable mooring in the First Amendment. *See, e.g.,*  
2 *Bridges v. California*, 314 U.S. 252, 263 (1941) (Black, J.) (“What finally emerges from the  
3 ‘clear and present danger’ cases is a working principle that the substantive evil must be  
4 *extremely serious* and the degree of imminence *extremely high* before utterances can be  
5 punished.”).

6 75. Facebook has an undoubted right “to control its own product, and to establish the  
7 terms with which its users, application developers, and advertisers must comply in order to  
8 utilize this product.” *Sambreel Holdings LLC v. Facebook, Inc.*, 906 F. Supp. 2d 1070, 1076  
9 (S.D. Cal. 2016). But, here, even Facebook cannot avoid liability for provable injury to  
10 Plaintiff’s property rights and intangible assets based on fraud and misrepresentation. *See, e.g.,*  
11 *Fair Hous. Council v. Roommates.com, LLC*, 521 F.3d 1157, 1166 (9th Cir. 2008) (en banc)  
12 (service provider may be liable where it makes answering discriminatory questions a condition  
13 for doing business on its site).

14 76. Thus, Facebook’s ownership of its platform does not give it free rein to develop,  
15 create, and publish false and misleading content on CHD’s page, or to create tags which  
16 mislead third-party users about the truthfulness of content on CHD’s pages, or to drive traffic  
17 from CHD’s page to the CDC, to advance Facebook’s adverse business interests. Facebook’s  
18 control over the manner in which its users view its website does not encompass the right to  
19 commit acts of censorship, false disparagement, and fraud.

20 77. Over the past fifteen months or longer, defendants have carried out a fraudulent  
21 scheme to misrepresent, censor, and exclude CHD’s viewpoint on vaccine and 5G network  
22 safety.

## 23 **2. Means and Methods of Defendants’ Scheme.**

24 78. Since on or about January 15, 2019, defendants have engaged in a scheme, plan  
25 and artifice to disparage and defraud CHD, and cause it to lose money and goodwill, and to  
26 obtain money and property by means of materially false and fraudulent pretenses,  
27 representations, and promises, through three principal methods: (A) making materially false  
28 statements; (B) omitting to disclose material facts; and (C) creating a materially deceptive

1 scheme. Defendants have created the false and misleading appearance to all third-party users  
 2 that CHD is in violation of Facebook’s Terms for publishing “false information” about vaccine  
 3 and 5G network safety, and defendants have used that ruse to deactivate CHD’s direct  
 4 fundraising and reject its paid advertisements, censor CHD’s content and user posts, publish  
 5 materially false or misleading content on CHD’s page, “shadow ban” CHD and “sandbox”  
 6 third-party users, i.e., deceptively limit the reach of other CHD content to those users whom  
 7 Facebook psychologically profiles as “undecided,” and conceal their methods and  
 8 collaborators. In truth, as defendants are fully aware, CHD has not posted any false  
 9 information, promoted any false content, or violated any fundraising or other terms of service.

10 79. Defendants Facebook, Zuckerberg, Science Feedback, Poynter, , and others  
 11 engaged in a scheme to defraud CHD by, among other conduct:

- 12 (A) Misrepresenting as fact to CHD that CHD’s fundraising function was  
 13 deactivated because CHD violated its terms of service with Facebook by  
 14 posting “false information” with respect to vaccines.
- 15 (B) Misrepresenting as fact to CHD’s outside ad agency that CHD’s  
 16 fundraising advertisements were rejected because CHD violated its terms  
 17 of service with Facebook by posting “false information” with respect to  
 18 vaccines. Facebook did not (nor can it) produce any evidence of actual  
 19 falsity in such advertisements.
- 20 (C) Misrepresenting as fact to all third-party Facebook users by means of a  
 21 “warning label” on CHD’s page that the CDC has “reliable, up-to-date  
 22 information about vaccines,” and that such users should “go to CDC.gov,”  
 23 and, by classic imputation of dishonesty, falsely suggesting that the  
 24 vaccine-related content on CHD’s page is not reliable, up-to-date  
 25 information.
- 26 (D) Misrepresenting as facts to all third-party Facebook users that particular  
 27 enumerated CHD-, RFK, Jr.- and third party-content posted on the CHD  
 28 page contains “False Information Checked by independent fact-checkers,”

1 and to “see why” users should instead accept the opposition content  
2 posted by Facebook’s “fact-checkers” on CHD’s page as “true”  
3 information on the same subjects.

4 (E) Engaging deceptive mechanisms and machine-learning algorithms, which  
5 secretly demote, hide, and/or limit the visibility and reach of CHD  
6 vaccine- and 5G network-related content (practices known as “shadow-  
7 banning” or “deboosting”) from third party users whom Facebook  
8 psychologically profiles as “undecided” (a practice known as  
9 “sandboxing”) in order to hide content from those it might sway, while  
10 misrepresenting to CHD and all third-party Facebook users that no such  
11 artificial processes or limitations have occurred.

12 (F) Misrepresenting as fact to all third-party Facebook users that Facebook  
13 relies upon “independent fact-checkers” to identify and tag “false  
14 information” on CHD’s Facebook page based on a set of objectively-  
15 neutral, reliable, and up-to-date factual criteria, when the criteria that is  
16 actually applied is neither neutral, reliable, nor up-to-date, and the “fact-  
17 checkers” are in privity with, or controlled by Facebook. The absurdity of  
18 these misrepresentations hits home when one considers that Facebook and  
19 Science Feedback created a “fact-checking” exemption for climate science  
20 deniers by deeming climate disinformation ineligible for “fact-checking,”  
21 because it is “opinion.” Emily Atkin, *Facebook creates fact-checking*  
22 *exemption for climate deniers*, HEATED (Jun. 24, 2020),  
23 <https://heated.world/p/facebook-creates-fact-checking-exemption>.

24 (G) Misrepresenting as fact to third-party Facebook users that CHD’s 5G-  
25 related content was demoted because it poses an “imminent risk of  
26 physical harm,” when Facebook took this action solely to advance its own  
27 economic interests in 5G development and deployment.  
28

1 (H) Misrepresenting as fact to all third-party Facebook users that users such as  
2 CHD who have had content removed from or tagged on its platform, can  
3 appeal that decision either to Facebook’s content moderator panel, or to an  
4 “independent” “Oversight Board,” and that in making such  
5 determinations, Facebook does not have any conflicts of interest that  
6 compromise its judgment. M. Zuckerberg, *Facebook’s commitment to the*  
7 *Oversight Board*, FACEBOOK (Sept. 2019), [https://about.fb.com/wp-](https://about.fb.com/wp-content/uploads/2019/09/letter-from-mark-zuckerberg-on-oversight-board-charter.pdf)  
8 [content/uploads/2019/09/letter-from-mark-zuckerberg-on-oversight-](https://about.fb.com/wp-content/uploads/2019/09/letter-from-mark-zuckerberg-on-oversight-board-charter.pdf)  
9 [board-charter.pdf](https://about.fb.com/wp-content/uploads/2019/09/letter-from-mark-zuckerberg-on-oversight-board-charter.pdf).

10 (I) Concealing the extent to which Facebook actively collaborated with Rep.  
11 Schiff, the CDC and WHO, inter alia, to implement their overall scheme.

12 (J) Concealing their overall scheme by these and other deceptions, including  
13 false and disparaging statements about CHD to users of CHD’s Facebook  
14 page, and to other third parties.

15 80. Among the means and methods by which these defendants carried out the  
16 scheme to defraud Plaintiff were their transmission by means of wires in interstate commerce  
17 of the following telephone calls, emails and/or online communications that contained  
18 materially false and misleading information, or made use of the wires in furtherance thereof,  
19 and proximately caused damages, including

- 20 (1) falsely disparaging "warning label"; (2) materially deceptive use of "fact-checkers";  
21 (3) disabling CHD's fundraising tools, donate button, and ads; (4) demoting CHD’s 5G-related  
22 posts in bad faith; (5) disabling CHD's right to "appeal"; and (6) concealment of the overall  
23 scheme.

24 **3. Falsely Disparaging Warning Label.**

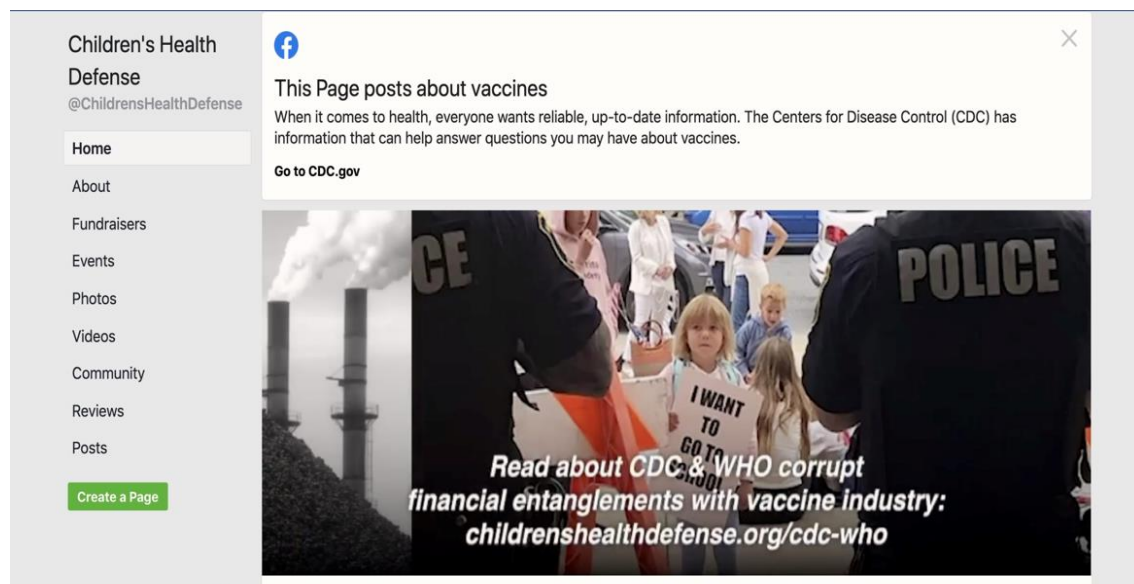
25 81. As alleged *supra*, on September 4, 2019, after “several months of discussion”  
26 with the WHO (*Vaccine Misinformation: Statement by WHO Director-General on Facebook*  
27 *and Instagram, supra*, <https://www.who.int/news-room/detail/04-09-2019-vaccine->  
28

1 misinformation-statement-by-who-director-general-on-facebook-and-instagram), Facebook  
2 published a Warning Label in bold black letters at the top of CHD’s Page, which states:

3 This Page posts about vaccines

4 When it comes to health, everyone wants reliable, up-to-date  
5 information. The Centers for Disease Control (CDC) has  
6 information that can help answer questions you may have about  
7 vaccines.

8 Go to CDC.gov



82.

19 83. Facebook re-publishes this disparaging falsehood every time a user uploads  
20 CHD’s Facebook page, as has occurred literally hundreds of thousands of times since  
21 September 4, 2019.

22 84. Facebook’s warning label conveys in clear terms to any user that what they see  
23 on CHD’s page is not reliable and not up-to-date, and it directs the user instead to “go to  
24 CDC.gov” for reliable and up-to-date “information” about vaccines. Any user visiting a  
25 webpage scans the immediately-visible content before scrolling down to view the remainder of  
26 the content. Consequently, the top banner space of any webpage is valuable “screen real-  
27 estate” where prime content can be shown. Facebook’s intended effect is to deprive CHD of  
28 this screen space and to redirect users away from CHD’s page to the CDC website. Zuckerberg



1 publicly boasts that his “warning labels” and “fact-checks” effectively divert 95% or more of  
2 all users from clicking through to the actual content. *Entire CNN April 16 Coronavirus Town*  
3 *Hall* [Video], CNN BUSINESS (Apr. 17, 2020),  
4 [https://www.cnn.com/videos/business/2020/04/17/entire-april-16-coronavirus-town-hall-part-](https://www.cnn.com/videos/business/2020/04/17/entire-april-16-coronavirus-town-hall-part-5-sot-vpx.cnn)  
5 [5-sot-vpx.cnn](https://www.cnn.com/videos/business/2020/04/17/entire-april-16-coronavirus-town-hall-part-5-sot-vpx.cnn).

6 85. Facebook’s use of the warning label effectively reduces third party user traffic to  
7 CHD’s page in at least three ways: First, it redirects a certain percentage of users (known only  
8 to Facebook) toward “authoritative sources,” who will not return to view the material deemed  
9 “misinformation.” Second, it directly targets seekers of information (the most important target  
10 audience) with the information that governmental authorities want them to see. Third, it  
11 intentionally and by necessary implication undermines the credibility and message of the  
12 source (CHD’s page) where the pop-up warning feature is placed. As customary and usual  
13 Silicon Valley practice, such features are heavily tested using A/B testing for effectiveness  
14 prior to widespread deployment.

15 86. On or about September 10, 2019, in response to Facebook’s disparaging warning  
16 label, CHD added text to the top of its Facebook page that states: “Read about CDC & WHO  
17 corrupt financial entanglements with vaccine industry: [childrenshealthdefense.org/cdc-who](https://www.childrenshealthdefense.org/cdc-who).”

#### 18 **4. Materially Deceptive use of “Fact-Checkers.”**

##### 19 **a. Facebook/”Fact-Checker” Agency Relationship.**

20 87. Facebook and Zuckerberg personally developed their “fact-checker” apparatus in  
21 a concerted effort to cloak Facebook’s censorship activities with Section 230(c)(1) immunity  
22 for hosting content nominally “created” by third parties. But, in reality, Facebook maintains  
23 supervision and control over many, if not all, aspects of the “fact-checker” processes connected  
24 to CHD’s posts. By its own engagement with those overlays, warnings, and “fact-check”  
25 explanations, Facebook and Zuckerberg had knowledge of their material falsity, or acted in  
26 reckless disregard for the truth.

27 88. First, Facebook deployed its own employees and artificial intelligence (“AI”)  
28 machine-learning mechanisms to identify and flag the CHD posts at issue (including any CHD

1 posts which were originally flagged for Facebook by the CDC or WHO) which Facebook then  
2 directed to its “fact-checkers” — Science Feedback, a French entity, and Poynter — to review.  
3 The AI machine learning models developed to detect misinformation signals are owned and  
4 were originally trained by Facebook’s selection of inputs. Machine learning models rely upon  
5 training and need to be trained upon a set of inputs, which Facebook itself selects. Thus, the  
6 validation and deployment of the machine learning models by which vaccine “misinformation”  
7 is directed to “fact-checkers” is wholly controlled by Facebook.

8 89. Second, Facebook’s Trust and Safety Division provided these “fact-checkers”  
9 with training manuals and other materials with which to review CHD’s posts, and Facebook’s  
10 set of prepopulated screening options. Facebook’s materials evidently referenced  
11 “authoritative” CDC/WHO sources for the “fact-checkers” to cite. Facebook helps develop and  
12 create the “fact-checkers” content. (We cannot know at this time whether Facebook also  
13 translates Science Feedback’s posts from French into English. Facebook posted Correctiv’s  
14 untranslated German fact-check over a CHD post.)

15 90. Third, Facebook evidently directed its Science Feedback and Poynter “fact-  
16 checkers” to bypass the “opinion” prepopulated screening option because that option does not  
17 result in a “fact-check” overlay. (As discussed *infra*, at least some of the CHD posts at issue  
18 should have been classified as “Opinion” based on fully-disclosed facts.) As has been  
19 documented elsewhere, Facebook can and does pressure its “fact-checkers” to change ratings.  
20 “In some cases, Facebook has reevaluated fact-check labels or penalties after fact-checkers had  
21 acted, often in the wake of political, financial, and PR pressures.” Alex Pasternack, *Facebook*  
22 *is quietly pressuring its independent fact-checkers to change their rulings*, FAST COMPANY  
23 (Aug. 20, 2020), [https://www.fastcompany.com/90538655/facebook-is-quietly-pressuring-its-](https://www.fastcompany.com/90538655/facebook-is-quietly-pressuring-its-independent-fact-checkers-to-change-their-rulings)  
24 [independent-fact-checkers-to-change-their-rulings](https://www.fastcompany.com/90538655/facebook-is-quietly-pressuring-its-independent-fact-checkers-to-change-their-rulings) (last visited Nov. 12, 2020).

25 91. Fourth, Facebook provides a substantial portion of the “fact-checkers” operating  
26 budgets which is at least 5% (the actual amount is not disclosed), and gives the “fact-checkers”  
27 more compensation on a post-by-post basis when the “fact-checkers” label posts “false” or  
28

1 “partly false,” with resulting opposition content-development, than when posts are labeled  
2 protected “opinion” instead.

3 92. Fifth, Facebook retains final control over the “fact-checker”- developed content.  
4 The technology that displays fact-checking posts on CHD pages is owned by Facebook.  
5 Control over the CHD page graphical elements (the grey overlay which obscures CHD’s  
6 content and labels it “false information checked by independent fact-checkers”) is exercised by  
7 Facebook, not its “fact-checkers.” The technology to limit visibility as a result of “fact-  
8 checking” rating is controlled by Facebook. *Facebook's Enforcement of Fact-Checker Ratings*,  
9 FACEBOOK FOR BUSINESS, Business Help Center,  
10 [https://www.facebook.com/business/help/297022994952764?id=673052479947730&recomme](https://www.facebook.com/business/help/297022994952764?id=673052479947730&recommended_by=2593586717571940)  
11 [nded\\_by=2593586717571940](https://www.facebook.com/business/help/297022994952764?id=673052479947730&recommended_by=2593586717571940) (last visited Nov. 12, 2020). Facebook decides whether to  
12 publish “fact-checker” posts in whole or in part, and — crucially — Facebook posts them to  
13 CHD’s page, not to the “fact-checkers” pages. Context is everything. Facebook’s posting of  
14 its “fact-checker” content directly to CHD’s page wrongly presumes that CHD has no  
15 beneficial right or interest in its page, or in being free of Facebook’s deliberate falsehoods as a  
16 condition of doing business on Facebook. *See, e.g., Fair Hous. Council v. Roommates.com,*  
17 *LLC*, 521 F.3d at 1166 (CDA Section 230 immunity did not protect website which made  
18 answering discriminatory questions, which violated the Fair Housing Act, a “condition of  
19 doing business” on the site). Facebook is also responsible for the technology that handles  
20 consequences of fact-checking rating, including reduced distribution, share warning pop-ups,  
21 sharing notifications, misinformation labels, and reducing the distribution of CHD’s other  
22 posts, and demonetizing CHD’s page.

23 93. In these, and other nonobvious ways, Facebook and Zuckerberg have established  
24 an elaborate and intricate agency relationship with Science Feedback and Poynter, their  
25 designated vaccine “misinformation” “fact-checkers.” Facebook the corporation and  
26 Zuckerberg the individual are both “responsible, in whole or in part, for the creation or  
27 development of information” under 47 U.S.C. § 230(f)(3) which information Facebook falsely  
28 purports to have been “independently” created and developed in whole by its nominally-third-

1 party “fact-checkers.”

2 94. Moreover, the web of other interrelationships between these defendants and  
3 various other entities, named and unnamed as parties herein, demonstrate the lack of  
4 independence between these organizations and the bias of these organizations against vaccine  
5 safety advocates such as CHD. For example, the Silicon Valley Community Foundation  
6 (“SVCF”) is another of Poynter’s major funders (besides Facebook). *Largest funders of*  
7 *Poynter, supra*, POYNTER.ORG, <https://www.poynter.org/major-funders/>. SVCF granted over  
8 \$256,000 to Poynter in 2018. *Grants: Where the Giving Goes*, SILICON VALLEY COMMUNITY  
9 FOUNDATION, Community Impact, <https://www.siliconvalleycf.org/2015grantees> (last visited  
10 Nov. 12, 2020). Zuckerberg has donated substantial funds to SVCF: \$500 million in 2012, \$1  
11 billion in 2013, and \$214 million in 2018, all in Facebook stock. *Facebook Founder*  
12 *Announces \$500 Million to Silicon Valley Community Foundation*, PND (Dec. 20, 2012),  
13 [https://philanthropynewsdigest.org/news/facebook-founder-announces-500-million-to-silicon-](https://philanthropynewsdigest.org/news/facebook-founder-announces-500-million-to-silicon-valley-community-foundation)  
14 [valley-community-foundation](https://philanthropynewsdigest.org/news/facebook-founder-announces-500-million-to-silicon-valley-community-foundation); Brandon Baily, *Facebook’s Mark Zuckerberg makes \$1 billion*  
15 *donation*, THE MERCURY NEWS (Dec. 19, 2013),  
16 [https://www.mercurynews.com/2013/12/19/facebooks-mark-zuckerberg-makes-1-billion-](https://www.mercurynews.com/2013/12/19/facebooks-mark-zuckerberg-makes-1-billion-donation/)  
17 [donation/](https://www.mercurynews.com/2013/12/19/facebooks-mark-zuckerberg-makes-1-billion-donation/); Kathleen Chaykowski, *Zuckerberg Donates \$200 Million To Silicon Valley*  
18 *Community Foundation As It Hires New CEO*, FORBES (Nov. 10, 2018),  
19 [https://www.forbes.com/sites/kathleenchaykowski/2018/11/10/zuckerberg-donates-214-](https://www.forbes.com/sites/kathleenchaykowski/2018/11/10/zuckerberg-donates-214-million-to-silicon-valley-community-foundation-as-it-hires-new-ceo/?sh=1897d9b4550d)  
20 [million-to-silicon-valley-community-foundation-as-it-hires-new-ceo/?sh=1897d9b4550d](https://www.forbes.com/sites/kathleenchaykowski/2018/11/10/zuckerberg-donates-214-million-to-silicon-valley-community-foundation-as-it-hires-new-ceo/?sh=1897d9b4550d).

21 95. More recently, both Facebook and CZI donated to SVCF (particularly to its  
22 Coronavirus Response). *Coronavirus Response Donors*, SILICON VALLEY COMMUNITY  
23 FOUNDATION, SVCF Coronavirus Response, [https://www.siliconvalleycf.org/coronavirus-](https://www.siliconvalleycf.org/coronavirus-response-donors)  
24 [response-donors](https://www.siliconvalleycf.org/coronavirus-response-donors) (last visited Nov. 12, 2020). Recently, 25% of SVCF’s grants has fallen into  
25 the “health” category. *Fundraising In A Pandemic: Where To Pivot And Persist*, CCS  
26 FUNDRAISING, <https://sftp.polsinelli.com/webinar/Fundraising-Webinar-6.10.20.pdf>. Despite  
27 its name, which suggests local Silicon Valley focus, SVCF is a leading international granting  
28 foundation and makes grants worldwide. For example, in 2019 SVCF granted \$200,000 to the

1 Walter and Eliza Hall Institute of Medical Research in Australia, which, among other things,  
 2 works in vaccine development. *Vaccine development*, WEHI (The Walter and Eliza Hall  
 3 Institute of Medical Research), [https://www.wehi.edu.au/research/research-](https://www.wehi.edu.au/research/research-technologies/vaccine-development)  
 4 [technologies/vaccine-development](https://www.wehi.edu.au/research/research-technologies/vaccine-development) (last visited Nov. 12, 2020); *Grants: Where the Giving*  
 5 *Goes*, SILICON VALLEY COMMUNITY FOUNDATION, Community Impact,  
 6 <https://www.siliconvalleycf.org/grantees>. Grantees in the United States include Children’s  
 7 Hospital of Philadelphia, PATH, and the Chan Zuckerberg BioHub, Inc. for which the  
 8 following 2019 transactions were noted:

Chan Zuckerberg Biohub, Inc.	CA	Health	Donor Advised	2019	2,498,721
Chan Zuckerberg Biohub, Inc.	CA	Health	Donor Advised	2019	-55,000,000

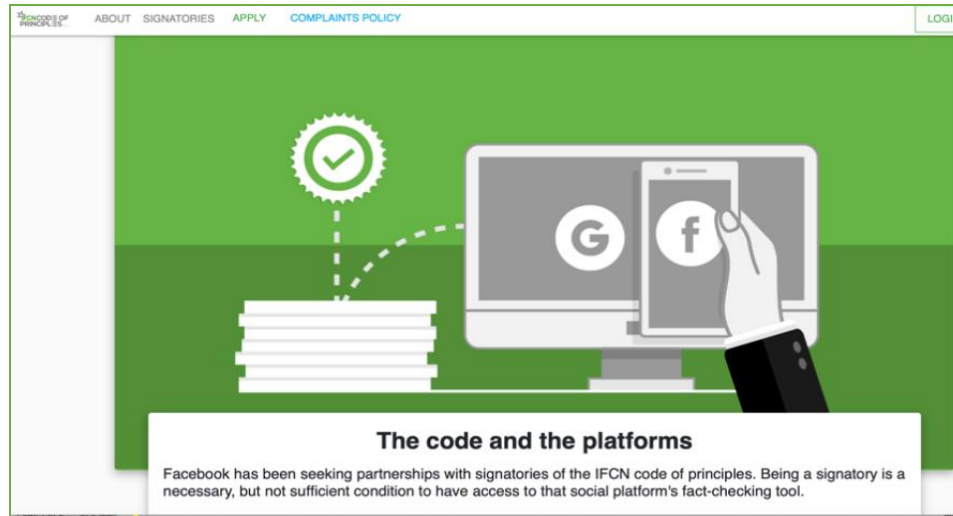
9  
10  
11  
12 96.

13 97. The Chan Zuckerberg Initiative also makes grants through entities including the  
 14 Chan Zuckerberg Initiative Donor-Advised Fund (DAF) at the SVCF. *Grants*, CHAN  
 15 ZUCKERBERG INITIATIVE, <https://chanzuckerberg.com/grants-ventures/grants/> (last visited Nov.  
 16 12, 2020).

17 98. Poynter founded the International Fact-Checking Network (“IFCN”) in 2015.  
 18 IFCN is a unit of Poynter the purpose of which is to bring together “fact-checkers” on an  
 19 international level and, in its own words, to “help[ ] surface common positions among the  
 20 world’s fact-checkers.” *The International Fact-Checking Network*, POYNTER.ORG,  
 21 <https://www.poynter.org/ifcn/> (last visited Nov. 12, 2020).

22 99. All Facebook “fact-checking” partners must be “certified” through IFCN.  
 23 *Partnering with Third-Party Fact-Checkers*, FACEBOOK, Journalism Project (Mar. 23, 2020),  
 24 [https://www.facebook.com/journalismproject/programs/third-party-fact-checking/selecting-](https://www.facebook.com/journalismproject/programs/third-party-fact-checking/selecting-partners)  
 25 [partners](https://www.facebook.com/journalismproject/programs/third-party-fact-checking/selecting-partners).

26 100. IFCN’s own website features its relationship with Facebook:  
 27  
 28



10 *The code and the platforms*, POYNTER.ORG, [https://ifncodeofprinciples.poynter.org/know-](https://ifncodeofprinciples.poynter.org/know-more/the-code-and-the-platforms)  
11 [more/the-code-and-the-platforms](https://ifncodeofprinciples.poynter.org/know-more/the-code-and-the-platforms) (last visited Nov. 12, 2020).

12 102. The IFCN certification of Poynter's own branded unit "PolitiFact" expired on  
13 June 20, 2020. Further, as shown by IFCN's website, PolitiFact scored low in a number of  
14 categories assessed in the certification process, including transparency of sources,  
15 nonpartisanship and fairness, and transparency of methodology. *PolitiFact*, POYNTER.ORG,  
16 IFCN Code of Principles, <https://ifncodeofprinciples.poynter.org/profile/politifact> (last visited  
17 Nov. 12, 2020).

18 103. Defendant Science Feedback also is certified by and a signatory to Poynter's  
19 IFCN. *Science Feedback*, POYNTER.ORG, IFCN Code of Principles,  
20 <https://ifncodeofprinciples.poynter.org/profile/science-feedback> (last visited Nov. 12, 2020).  
21 Though a French entity, Science Feedback delivers its work-product to Facebook's offices and  
22 committed other acts in furtherance of the defendants' fraudulent scheme in this District.

23 104. Science Feedback describes itself as "the only organization dedicated to  
24 verifying information in scientific fields by empowering the scientific community to take an  
25 active part in this endeavour to make the Internet a more credible place." *Science Feedback*  
26 *partnering with Facebook in fight against misinformation*, SCIENCE FEEDBACK (May 14,  
27 2019), [https://sciencefeedback.co/science-feedback-partnering-with-facebook-in-fight-against-](https://sciencefeedback.co/science-feedback-partnering-with-facebook-in-fight-against-misinformation/)  
28 [misinformation/](https://sciencefeedback.co/science-feedback-partnering-with-facebook-in-fight-against-misinformation/) (last visited Nov. 12, 2020).

1           105. Science Feedback has partnered with Facebook since at least April 2019 to fact  
2 check Facebook content. *Id.*, *Science Feedback partnering with Facebook in fight against*  
3 *misinformation, supra*, SCIENCE FEEDBACK, [https://sciencefeedback.co/science-feedback-](https://sciencefeedback.co/science-feedback-partnering-with-facebook-in-fight-against-misinformation/)  
4 [partnering-with-facebook-in-fight-against-misinformation/](https://sciencefeedback.co/science-feedback-partnering-with-facebook-in-fight-against-misinformation/).

5           106. Health Feedback contributors include numerous pro-vaccine scientists and  
6 vaccine patent holders, including Ian Frazer, Neal Halsey, Walter A. Orenstein, and Beate  
7 Kampmann, among others. *Reviewers*, HEALTH FEEDBACK, Community,  
8 <https://healthfeedback.org/community/> (last accessed Nov. 12, 2020). This list of contributors  
9 demonstrates that Science Feedback’s and Health Feedback’s “commitment to objectivity” is a  
10 veneer.

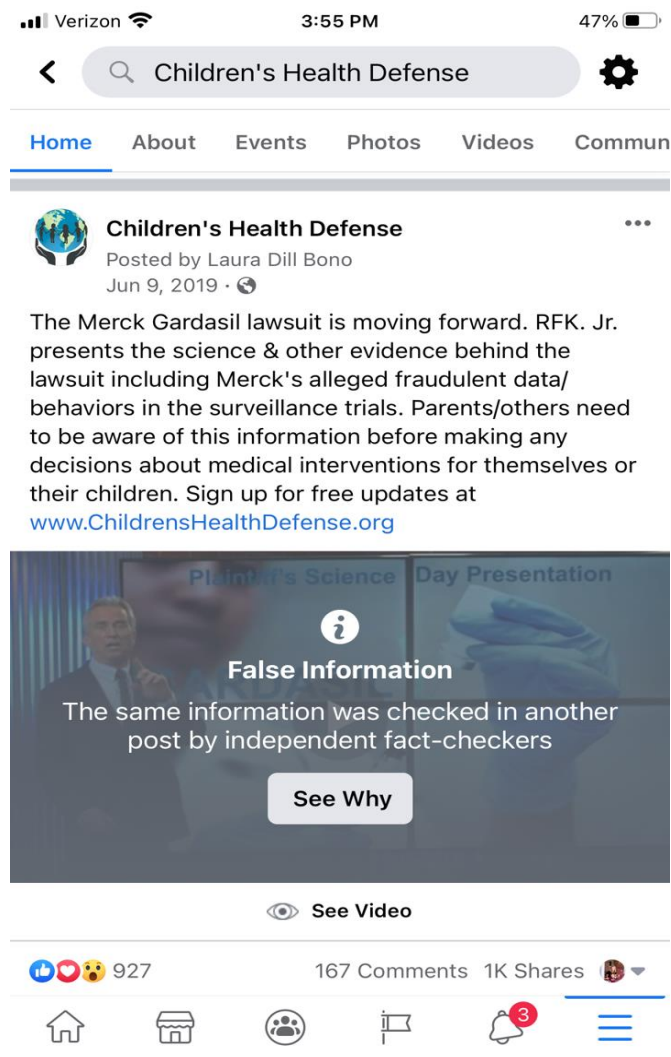
11           107. Science Feedback is the parent company of Health Feedback, which is a member  
12 of WHO’s Vaccine Safety Net. *About*, SCIENCE FEEDBACK, <https://sciencefeedback.co/about/>  
13 (last visited Nov. 12, 2020); *Health Feedback*, VACCINE SAFETY NET (updated Jan. 31, 2020),  
14 <https://www.vaccinesafetynet.org/vsn/network/health-feedback> (last visited Nov. 12, 2020).  
15 Vaccine Safety Net vigorously opposes challenges raised by vaccine safety advocates and  
16 others. *About Vaccine Safety Net*, VACCINE SAFETY NET,  
17 <https://www.vaccinesafetynet.org/vsn/vaccine-safety-net> (last visited Nov. 12, 2020).

18           108. The WHO’s Vaccine Safety Net membership includes the American Academy of  
19 Pediatrics, the CDC, GAVI, Global Advisory Committee on Vaccine Safety (“GACVS”),  
20 PATH’s Vaccine Resource Library, Vaccinate Your Family, the Vaccine Education Center at  
21 the Children’s Hospital of Philadelphia, the Immunization Action Coalition, the Sabin Vaccine  
22 Institute, and the Vaccine Knowledge Project. *VSN Members*, VACCINE SAFETY NET,  
23 <https://www.vaccinesafetynet.org/vsn/network> (last visited Nov. 12, 2020).

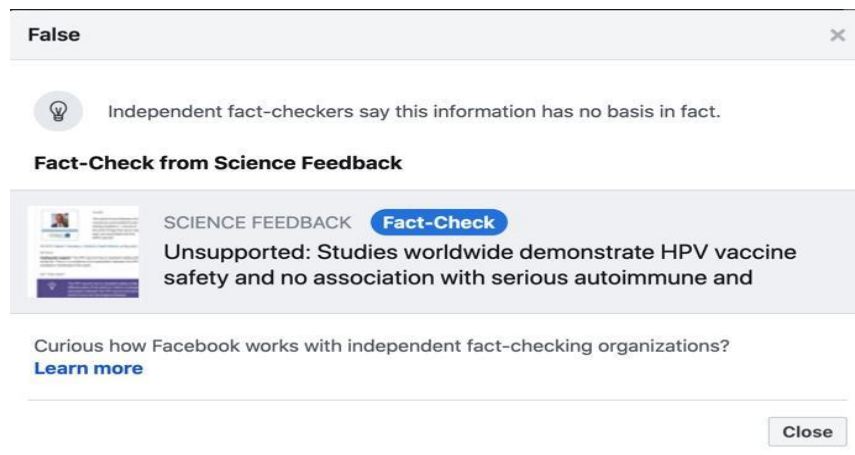
24                           **b. Specific Facebook “Fact-Checks” Containing Material Falsity.**

25           109. On or about June 9, 2019 and thereafter, Facebook electronically blocked CHD  
26 from displaying on CHD’s Facebook page a videotape interview of RFK, Jr. discussing a  
27 pending lawsuit against Merck & Co. In so doing, Facebook fraudulently misrepresented to all  
28

1 third-party users of CHD’s Facebook page that the videotape was “False Information Checked  
 2 by independent fact-checkers.”

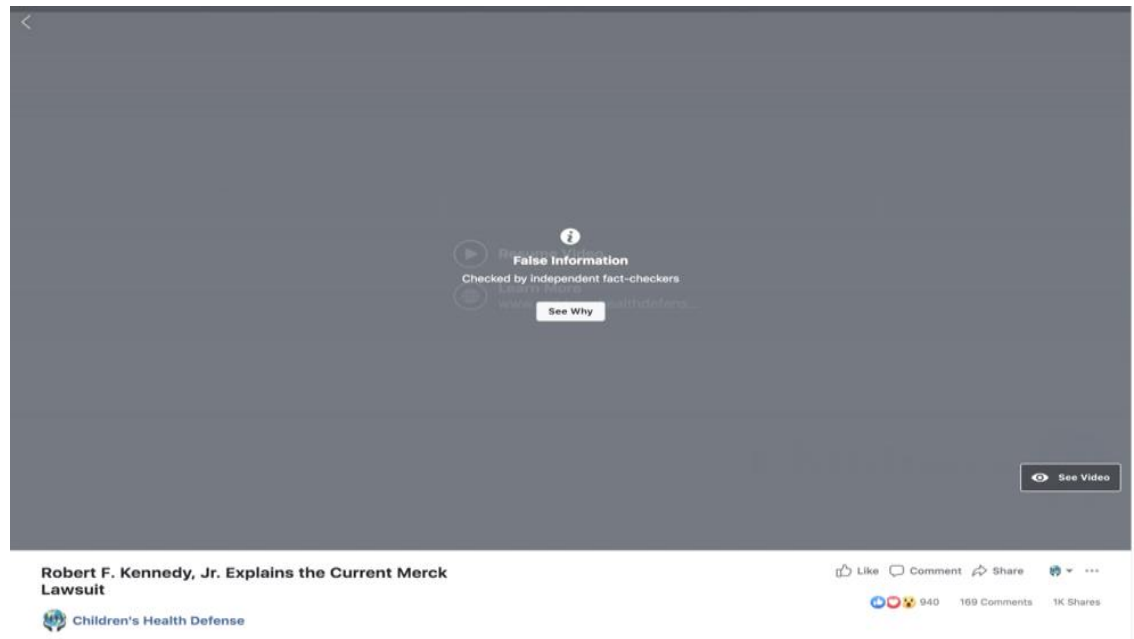


110.



111.





112.

113. Facebook’s warning label on RFK’s May 15, 2019 videotape critical of Merck, Inc. was materially deceptive, in that the videotape is accurate with respect to its assertions of fact and is otherwise an expression of RFK, Jr.’s opinions, and not “False Information” as Facebook claims. Facebook’s warning label also omits material facts by failing to disclose its advertising-client relationship with Merck, Inc. *See* T. Staton, *The top 10 pharma companies in social media*, FIERCEPHARMA, <https://www.fiercepharma.com/special-report/top-10-pharma-companies-social-media-0> (last visited Aug. 14, 2020). Merck, Inc. is one of the top 10 social media spenders among pharmaceutical companies and heavily leverages Facebook as an advertising platform.

114. Science Feedback’s “fact-check” is deliberately false and misleading, and tries to silence an important discussion about the influence of pharmaceutical companies on vaccine trial data and outcomes. Science Feedback does not address the crux of the piece – RFK, Jr.’s criticism about fraud at Merck, and how trial data was manipulated. Merck has a well-documented history of fraudulent behavior. It intentionally withheld scientific data about Vioxx’s adverse cardiovascular side effects resulting in settlements and fines above \$4.8 billion for causing at least 60,000 deaths from sudden heart attacks and over 120,000 serious medical injuries. Defendants were aware, or acted in reckless disregard of, these and other

1 specific falsities in the Science Feedback opposition “fact-check,” but posted it nonetheless on  
2 CHD’s page, in furtherance of their fraudulent scheme.

3 115. In citing studies that the HPV vaccine has been proven safe and effective,  
4 Science Feedback deliberately omits studies that have had a different outcome, and attempts to  
5 deflect scrutiny of the pharmaceutical companies, and their manipulation of study outcomes.  
6 Richard Horton, the Editor in Chief of the esteemed medical journal “Lancet” was recently  
7 quoted as saying the influence wielded by big Pharma to influence publications is "criminal."

8 116. On or about May 1, 2019 and thereafter, Facebook electronically blocked CHD  
9 from displaying photographs of children receiving vaccines with needles on CHD’s Facebook  
10 page, and fraudulently misrepresented to CHD that the photographs were “violent,” and  
11 purported to have deleted them on that basis. Facebook’s stated reason was a pretext for its  
12 actual motive: to inflict damage on CHD.

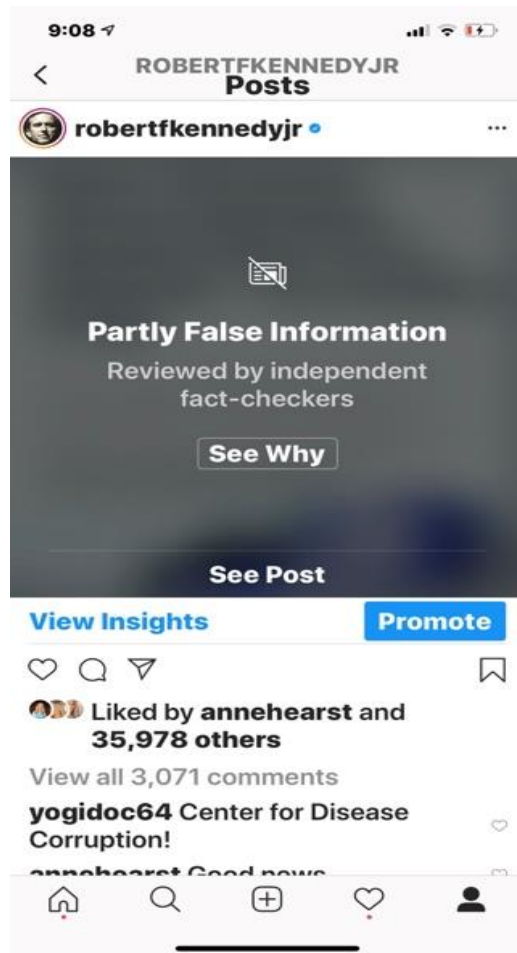
13 117. On about May 1, 2019 and thereafter, Facebook posted the text of Wikipedia’s  
14 entry about CHD on CHD’s Facebook page and refused to take it down, despite CHD’s  
15 objection that the Wikipedia entry is false and misleading. The Wikipedia entry states, *inter*  
16 *alia*, that “[m]uch of the material put forth by the Organization involves manipulation of  
17 information and anti-vaccine propaganda. [. . .] The group has been contributing to vaccine  
18 hesitancy in the United States[.]” Defendants were aware, or acted in reckless disregard of,  
19 these and other specific falsities in the Science Feedback opposition “fact-check,” but posted it  
20 on CHD’s page nonetheless, in furtherance of their fraudulent scheme.

21 118. Wikipedia’s reliability has been questioned by organizations such as the Hoover  
22 Institute, Encyclopedia Britannica and MIT. In *Wikipedia: The Dumbing Down of World*  
23 *Knowledge* (2010), journalist Edwin Black characterized the content of articles as a mixture of  
24 "truth, half-truth, and some falsehoods." Edwin Black, *Wikipedia—The Dumbing Down of*  
25 *World Knowledge*, HISTORY NEWS NETWORK (April 19, 2010). Archived from the original on  
26 September 9, 2016.) In *Wisdom? More like Dumbness of the Crowds* (2007), Oliver Kamm  
27 wrote that articles usually are dominated by the loudest and most persistent editorial voices or  
28 by an interest group with an ideological "axe to grind". Oliver Kamm, *Wisdom? More like*

1 *dumbness of the crowds*, THE TIMES (August 16, 2007). The Wikipedia post smears CHD by  
 2 asserting that “the organization involves misinformation on vaccines and anti-vaccine  
 3 propaganda.” If Facebook were truly concerned with reliable information, it would not use  
 4 Wikipedia as a weapon against CHD on CHD’s own page.

5 119. On or about May 26, 2020 and thereafter, Facebook and its Lead Stories “fact-  
 6 checker” blocked CHD from displaying a 45-minute Instagram videochat with RFK, Jr. in  
 7 which he accurately detailed Dr. Anthony Fauci’s past involvement with vaccine  
 8 manufacturers, and Facebook fraudulently misrepresented to all third-party users that the  
 9 interview was “Partly False Information Reviewed by independent fact-checkers.” Instagram is  
 10 a Facebook-subsidary photo and video-sharing social networking service.

11 120.



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**Independent Fact-Checkers Say This Is Partly False**

The information in this post is a mix of true and false claims or it could be misleading or incomplete.



**Fact-Checker:** Lead Stories

**Conclusion:** Partly False

**More Information:** Partly False:

There is a reporting lag on death-certificate based statistics compared to direct reports from states etc.

You can **send them an email** if you think there was a mistake.

Learn more about how Instagram is working with independent fact-checkers to reduce false information.

121.

122. Upon clicking the “See Why” button, this materially-misleading explanation appears: “Independent Fact-Checkers Say This Is Partly False. The information in this post is a mix of true and false claims or it could be misleading or incomplete.” This “partly false” designation appears to concede that the information is at least partly true, while the warning taints the entirety of the material – a highly unfair, overbroad and prejudicial approach. In actuality, RFK Jr.’s interview consisted of completely factual representations and statements of opinion derived from disclosed facts. Defendants were aware, or acted in reckless disregard of, these and other specific falsities in the Lead Stories opposition “fact-check,” but posted it on CHD’s page nonetheless, in furtherance of their fraudulent scheme.

123. On or about May 28, 2020 and thereafter, Facebook blocked CHD from displaying an article by Dr. Brian Hooker and Neil Miller concerning health outcomes in a small-sample study of vaccinated and unvaccinated children and fraudulently misrepresented to all third-party users that the article was “False Information Checked by Independent fact-checkers.”

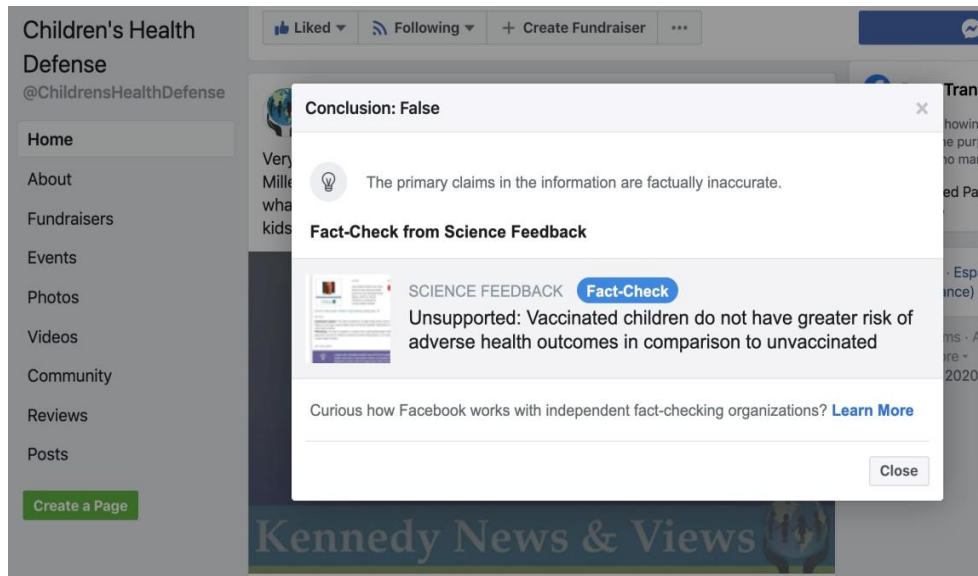
124. Instead of sharing a normal preview, Facebook marks the content specifically with an overlay grey graphic and prominent warning: “False Information Checked by Independent fact-checkers.” This has the intended effect of reducing both click-throughs to the underlying content and shares. The net effect is to drastically reduce by 95% the traffic to

1 Children’s Health Defense website. *Entire CNN April 16 Coronavirus Town Hall* [Video],  
 2 *supra*, [https://www.cnn.com/videos/business/2020/04/17/entire-april-16-coronavirus-town-](https://www.cnn.com/videos/business/2020/04/17/entire-april-16-coronavirus-town-hall-part-5-sot-vpx.cnn)  
 3 [hall-part-5-sot-vpx.cnn](https://www.cnn.com/videos/business/2020/04/17/entire-april-16-coronavirus-town-hall-part-5-sot-vpx.cnn).



15 125.

16 126. Upon clicking the “See Why” button in the above screenshot, the user is shown  
 17 the following scroll which gives the notice, “The primary claims in the information are  
 18 factually inaccurate.”




28 127.

1 128. Clicking the Science Feedback preview graphic takes the user to Facebook’s  
 2 purportedly “independent,” i.e., objectively-neutral, Science Feedback “fact-check” opposition:

3 **Significant methodological flaws in a 2020**  
 4 **study claiming to show unvaccinated children**  
 5 **are healthier**

6 375 SHARES Share Tweet



Children's Health Defense

CLAIM

Vaccinated children are more likely to have adverse health outcomes like developmental delays, asthma, and ear infections compared to unvaccinated children.

VERDICT <sup>?</sup>

UNSUPPORTED


SOURCE: Brian Hooker, Children's Health Defense, 28 May 2020

DETAILS

**Inadequate support:** This claim is based on a single study which used highly biased methods. Rigorous and large-scale studies have not found a greater likelihood of adverse health outcomes in vaccinated children.

**Misleading:** The claim is based on a study which used questionable methods of selecting a study population and which failed to control for confounding factors in its comparison of vaccinated and unvaccinated children.

KEY TAKE AWAY



Large-scale, reputable studies have not found a greater incidence of adverse health outcomes in vaccinated children compared to unvaccinated children. A significant problem with the single study cited in this claim is its failure to control for differences between vaccinated and unvaccinated children, such as healthcare-seeking behavior, which can factor into health outcomes. Furthermore, the study used patient data from handpicked pediatric clinics only, which are not representative of the general population.

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Nina Masters  
 PhD Student (Epidemiology), University of Michigan

Editor



Flora Teoh  
 Science Editor, Health Feedback

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19 129.

20 130. However, this purportedly neutral Science Feedback “fact-check” is itself a  
 21 misrepresentation of material fact. Dr. Hooker, the author of the original study, disclosed in  
 22 that study the small size of his study sample, the statistical methods he employed on that small  
 23 sample, and the results he obtained, all of which is fully consistent with the scientific method.  
 24 Any reasonable reader of the study would be fully empowered to interpret for himself or  
 25 herself whether those statistical results have broader applicability, particularly in light of the  
 26 author’s conclusion that broader studies are warranted. Instead, Facebook holds out its “fact-  
 27 checker’s” opinion critical of the study methodology as conclusive “fact.” Facebook’s  
 28 classification of the original study as factually “false” is deceptive and materially misleading.

1           131. Looking beyond the veneer of the “fact-checker” label, one sees a patent effort to  
2 deceive rather than to educate the reader. Science feedback’s primary criticism of the Hooker  
3 and Miller 2020 study was the use of a convenience sample which refers to a cohort of 2,047  
4 children, whose data the authors studied from three separate pediatric practices in the United  
5 States. However, convenience samples are used routinely in epidemiology, and also form the  
6 basis for the FDA’s approval of drugs and biologics.

7           132. For example, Science Feedback relies upon as its source, Dr. David Gorski, a  
8 blogger who states, “Basically, no matter how you analyze a convenience sample, you can’t  
9 generalize it to the larger population.” This is false and misleading. The CDC’s own studies,  
10 some of which are cited in the “fact-checking” article, are almost exclusively based on  
11 convenience samples. The study presented by Destefano et al. in the 2004 journal *Pediatrics* on  
12 the timing of the MMR vaccine and autism was completed using a convenience sample of  
13 approximately 2,400 children in public school districts in Metropolitan Atlanta. This was not a  
14 representative sample of the U.S. population as the percentage of African American children in  
15 the study was 35.4% compared to that of the U.S. at the time at 16%. Yet, this sole study is the  
16 CDC’s basis for denying a causal link between the MMR vaccine and autism in the U.S.  
17 Defendants were aware, or acted in reckless disregard of, these and other specific falsities in  
18 the Science Feedback opposition “fact-check,” but posted it on CHD’s page nonetheless, in  
19 furtherance of their fraudulent scheme.

20           133. On June 2, 2020 and thereafter, Facebook and Science Feedback, its purportedly  
21 “independent fact-checker,” blocked CHD from displaying Dr. Elizabeth Mumper’s personal  
22 account of her medical practice experience evaluating children and families over many  
23 decades, and fraudulently misrepresented to all third-party users that the post was “False  
24 Information Checked by independent fact-checkers.”

25           134. Instead of sharing a normal preview, Facebook marks the content specifically  
26 with an overlay grey graphic and a prominent warning “False Information Checked by  
27 independent fact checkers.” As discussed, *supra*, this has the intended effect of drastically  
28

1 reducing (by 95%) both click-throughs to the underlying content and shares. Facebook deploys  
 2 this deceptive tactic in order to greatly reduce user traffic to CHD’s Facebook page or website.



135.

136. Upon clicking the “See Why” button in the above screenshot, the user is shown  
 16 the following scroll with the notice, “The primary claims in the information are factually  
 17 inaccurate.” But, the only citation for this notice is Dr. Brian Hooker’s small scale study  
 18 referenced *supra*. Dr. Hooker’s study is cited by the article, but it is neither its “primary” claim  
 19 nor, in any event, is it false.



137.



1 138. Clicking the Science Feedback preview graphic takes the user to a purported  
2 “fact-check” and oppositional article to Dr. Hooker’s study, not Dr. Mumper’s study, which it  
3 labels “false.”

4 Significant methodological flaws in a 2020  
5 study claiming to show unvaccinated children  
6 are healthier

7 375 SHARES Share Tweet

8 CLAIM: Vaccinated children are more likely to have adverse health outcomes like developmental delays, asthma, and ear infections compared to unvaccinated children.

9 VERDICT <sup>TM</sup> UNSUPPORTED

10 SOURCE: Brian Hooker, Children's Health Defense, 28 May 2020

11 DETAILS

12 **Inadequate support:** This claim is based on a single study which used highly biased methods. Rigorous and large-scale studies have not found a greater likelihood of adverse health outcomes in vaccinated children.



13 **Misleading:** The claim is based on a study which used questionable methods of selecting a study population and which failed to control for confounding factors in its comparison of vaccinated and unvaccinated children.

14 KEY TAKE AWAY

15 Large-scale, reputable studies have not found a greater incidence of adverse health outcomes in vaccinated children compared to unvaccinated children. A significant problem with the single study cited in this claim is its failure to control for differences between vaccinated and unvaccinated children, such as healthcare-seeking behavior, which can factor into health outcomes. Furthermore, the study used patient data from handicapped pediatric clinics only, which are not representative of the general population.

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21 Reviewers

22  Abram L. Wagner  
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24  Nina Masters  
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University of Michigan

25 Editor

26  Flora Teoh  
Science Editor, Health Feedback

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Help us create a more trustworthy  
Internet!

139.

140. Rather, Dr. Mumper’s article, *Mothers of Vaccine Injured Children: Modern Day  
Cassandras*, details its author’s medical practice history evaluating children and families and  
the systematic denial of the existence of vaccine injury by the public health system. The article  
contains links to peer reviewed, published research, and makes clear that it is Dr. Mumper’s  
small-scale analysis and opinion, and that the interpretive value of her fact-based opinions  
should be viewed accordingly, that is, as an anecdotal but nonetheless significant marker of  
disparities in health outcomes. That fully-disclosed caveat does not make Dr. Mumper’s article  
any less relevant as a contribution to the scientific literature. Critically, Dr. Mumper’s article is  
not factually inaccurate or misleading in any way, nor does Facebook or Science Feedback  
identify any actual inaccuracies.

141. Dr. Mumper is a board-certified pediatrician with 40 years of experience as a  
clinical practitioner and pediatric faculty member. She served as Medical Director of the  
Autism Research Institute for five years and has lectured about medical problems of children

1 with chronic disease in 20 countries. The clinical opinion Dr. Mumper expressed in her June 2,  
2 2020 article was the product of her extensive clinical research and practice, and her  
3 conscientious reading of the medical literature. She has personally asked the CDC, National  
4 Institute of Health, and the American Academy of Pediatrics to conduct well-controlled studies  
5 comparing vaccinated children to unvaccinated children. In the meantime, and in the absence  
6 of any such more definitive work, Dr. Mumper’s small-scale comparative study and her  
7 opinions, within their expressed limits, have interpretive value and validity, and play a  
8 necessary and critical role in informing her fellow practitioners, patients, and the general  
9 public.

10 142. In short, Facebook has misrepresented as fact to all third-party users that Dr.  
11 Mumper’s article is “false,” and that its “primary claims are factually inaccurate,” when that is  
12 not the truth. Facebook has also misrepresented as fact to all third-party users that Facebook  
13 relied upon an “independent fact-checker,” when the criteria that Science Feedback has  
14 actually applied is neither neutral, reliable, nor up-to-date, nor for that matter is Science  
15 Feedback “independent” of its contractual payor, Facebook.

16 143. The CHD content in question illuminates the plausibility of risk in current public  
17 health policy, and this information allows third-party users to determine if additional  
18 investigation or mitigation is needed on their part. Facebook’s deliberate conflation of open  
19 scientific controversy with “vaccine hoax” is a misrepresentation of fact. In short, closing  
20 down legitimate debate of matters in open controversy is not a public benefaction, but an abuse  
21 of power and something that is completely contrary to science. Defendants were aware, or  
22 acted in reckless disregard, of these and other specific falsities in the Science Feedback  
23 opposition “fact-check,” but posted it on CHD’s page nonetheless, in furtherance of their  
24 fraudulent scheme.

25  
26  
27  
28



JUNE 02, 2020  
**Mothers of Vaccine-Injured Children: Modern Day Cassandras**



Print


By Elizabeth Mumper, M.D., FAAP, The Rimland Center

Some days I feel like Cassandra, the Greek woman who could see the future, but not articulate it in a way that gave her credibility. In the tragedy *Agamemnon*, Apollo promised Cassandra the gift of prophecy if she would be his lover. She accepted the gift, then rebuffed Apollo when he desired sexual favors. Apollo got revenge by ordaining her predictions would be rejected. She predicted the Trojan horse battle and Agamemnon's bloody death, but no one believed her.

Parents of children with complex chronic illness must also feel like Cassandras. Hundreds of times I have taken detailed histories from parents in which seemingly healthy children deteriorated or regressed within 24-48 hours of a vaccine, often ending up in the Emergency Department, only to be told that it was a "coincidence" and that the vaccine could not be the

144.

145. On or about April 16, 2020 and thereafter, Facebook and Poynter/PolitiFact, its purportedly "independent fact-checker," blocked CHD from displaying an article concerning a study in the journal *Collective-Evolution.com* which found a "significantly" greater risk of contracting coronavirus among individuals in the study who received the influenza vaccine, and Facebook and Poynter fraudulently misrepresented to all third-party users that the post was "False Information Checked by independent fact-checkers." Indeed, the very name "PolitiFact" suggests that the putative "fact-checking" here is more political than scientific.

1  **Children's Health Defense**  
2 April 16 · 🌐

3 The Facts: A new study published in the journal Vaccine found a  
4 significantly greater risk of contracting coronavirus among  
5 individuals in the study who received the influenza vaccine.  
6 Reflect On: Are vaccines completely and 100 percent safe for  
7 everybody? Is there a large minority who are more susceptible to  
8 vaccine injury and complications compared to others?



12 COLLECTIVE-EVOLUTION.COM  
13 **New Study: The Flu Vaccine Is “Significantly  
14 Associated” With An Increased Risk of Coronavirus**

15  654 111 Comments 511 Shares


16  Like  Comment  Share

17 Most Relevant ▾

18  Write a comment... 

19 View comments

20 **Related Articles**

21  PolitiFact Fact-Check  
22 False Headline: This 2017-18 flu season study does not  
23 include COVID-19  
24 PolitiFact is a fact-checking website that rates the acc...

25 146.

26 147. Upon clicking-through the “See Why” button, the user is presented with the  
27 following purported “fact-check” by PolitiFact, which is a fictitious name registered by  
28 Poynter.



stated on April 16, 2020 in a media website:

**"New study: The flu vaccine is 'significantly associated' with an increased risk of coronavirus"**

PUBLIC HEALTH FACEBOOK FACT-CHECKS CORONAVIRUS  
FACEBOOK POSTS



This Jan. 23, 2020 file photo shows a patient receiving a flu vaccination in Mesquite, Texas. (AP Photo)

**This 2017-18 flu season study does not include COVID-19**

Venezky  
020

**IF YOUR TIME IS SHORT**

- The study featured in the article is from 2019 and the data for it was collected in 2017-18, so it doesn't include COVID-19 information.

148.

149. The Poynter/PolitiFact “fact-check” misrepresents and fails to rebut two important aspects of the study: (1) coronaviruses existed in 2017-2018 in forms other than COVID-19; and (2) the study’s conclusion that “vaccine derived virus interference was significantly associated with coronavirus and human metapneumovirus.” Receiving the influenza vaccination may increase the risk of other respiratory viruses, a phenomenon known as viral interference. Defendants were aware, or acted in reckless disregard, of these and other specific falsities in the Poynter/PolitiFact opposition “fact-check,” but posted it on CHD’s page nonetheless, in furtherance of their fraudulent scheme.

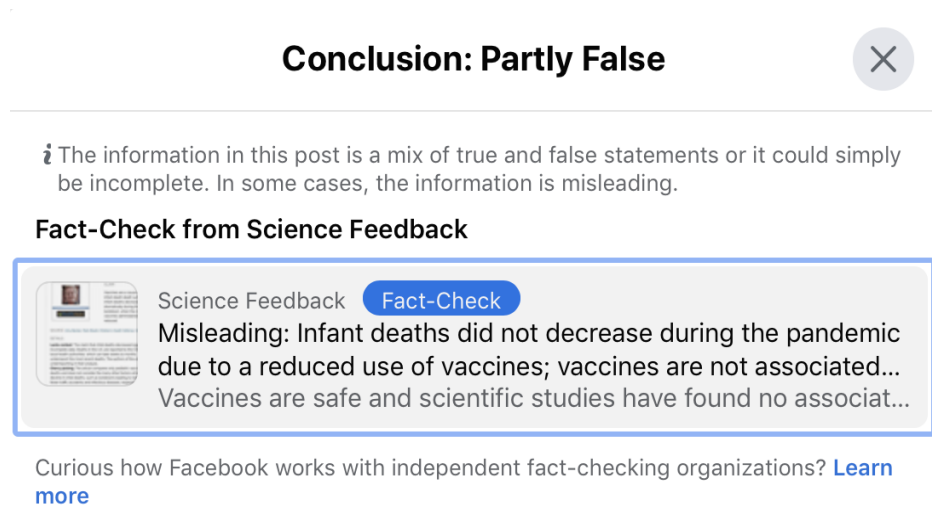
150. On or about June 18, 2020 and thereafter, Facebook blocked CHD from displaying an article concerning a sharp decline in infant death rates during the pandemic,

1 matching a sharp decline in “well-baby visits” when vaccines are typically given. Facebook  
2 and Science Feedback, its purportedly “independent fact-checker,” fraudulently misrepresented  
3 to all third-party users that the post was “Partly False Information Checked by independent  
4 fact-checkers.”



151.

152. Upon clicking-through the “See Why” button, the user is presented with a  
19 purportedly factual opposition article by Science Feedback.



153.



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## Infant deaths did not decrease during the pandemic due to a reduced use of vaccines; vaccines are not associated with sudden infant death syndrome

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Editor


 Flora Teoh  
Science Editor, Health Feedback

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CLAIM

Vaccines are a cause of sudden infant death death syndrome; infant deaths decreased dramatically during the lockdown, when the number of vaccines administered was reduced


SOURCE: Amy Becker, Mark Blaxill, Children's Health Defense, Health Choice, 18 Jun. 2020

DETAILS

**Lacks context:** The claim that child deaths decreased significantly during the pandemic is based on incomplete data. Deaths in the U.S. are reported to the CDC only after death certificates are received by local health authorities, which can take weeks to months. The most recent CDC data therefore always underreport the most recent deaths. The authors of the article did not sufficiently account for this underreporting in their analysis.

**Misrepresents a complex reality:** The article compares only pediatric vaccine uptake during the pandemic to child deaths and does not consider the many other factors which may have contributed to the recent decline in child deaths, such as lockdowns leading to reduced travel and social contact, culminating in fewer traffic accidents and infectious diseases, respectively.

KEY TAKE AWAY



Vaccines are safe and scientific studies have found no association between vaccination and sudden infant death syndrome (SIDS). Blaxill and Becker's report is based on incomplete data, as they did not account sufficiently for the lag time that occurs between a death and its reporting to the U.S. CDC. Their findings that child deaths have significantly decreased compared to previous years are therefore spurious and premature. The duo also failed to account for other factors which may have contributed to changes in child mortality, such as stay-at-home orders, which would have limited the spread of other infectious diseases besides COVID-19.

VERDICT

MISLEADING

154.

155. Science Feedback's assertion that vaccines bear no "association" with sudden infant death is itself a misrepresentation of fact, as it contradicts, *inter alia*, the potential adverse effect advisements formerly on many vaccine product inserts, customarily administered to infants according to the CDC's 72-dose recommended vaccine schedule. In 2017, the U.S. Court of Federal Claims Special Master ruled there was "preponderant evidence" that vaccines caused or substantially contributed to a 2011 SIDS death. The Special Master also determined that that fatality could not be attributed to non-vaccine related factors. *Boatmon v. Sec'y of Health & Human Servs.*, No. 13-611V, 2017 WL 3432329 (Fed. Cl. Spec. Mstr. July 10, 2017). The U.S. Court of Federal Claims (over one dissent) reversed because the theory was at best "medically plausible," and did not meet petitioner's burden of proof.

1 Opinion in *Boatmon v. Secretary of Health & Human Services*, No. 18-2333, JUSTIA, U.S. Law  
2 (Fed. Cir. 2019), [https://law.justia.com/cases/federal/appellate-courts/cafc/18-2333/18-2333-](https://law.justia.com/cases/federal/appellate-courts/cafc/18-2333/18-2333-2019-11-07.html)  
3 [2019-11-07.html](https://law.justia.com/cases/federal/appellate-courts/cafc/18-2333/18-2333-2019-11-07.html). Nonetheless, CHD’s article advances a potential explanation (expressly  
4 stated as such) for a decrease in sudden infant deaths during the pandemic, as to which the  
5 public has a right to be informed. There is nothing “false” about CHD’s speculative inquiry  
6 into matters of causation in an open scientific controversy. Defendants were aware, or acted in  
7 reckless disregard, of these and other specific falsities in the Science Feedback opposition  
8 “fact-check,” but posted it on CHD’s page, in furtherance of their fraudulent scheme,  
9 nonetheless.

10 156. On March 4, 2020 CHD posted a link to an article by Dr. Brownstein in  
11 Newsmax which examined some of the serious health issues that have surfaced with respect to  
12 the HPV vaccines. Facebook darkened the post overlaying the text “False Information Checked  
13 by Independent Fact Checkers” with a See Why button. The See Why button led to a screen  
14 where Science Feedback asserted the information was false and provided a link to a page for its  
15 “fact-checked” article which states that the HPV vaccine has an “excellent safety record.”

16 157. Dr. Brownstein writes that since the HPV vaccine's first approval, there have  
17 been reports linking Gardasil (the trade name for the HPV vaccine) to autoimmune illnesses. In  
18 order to see if there was an association, scientists used an epidemiological assessment of the  
19 vaccine adverse event reporting system database (VAERS) looking for adverse events with  
20 Gardasil from 2006 to 2014, and found several increases in auto-immune adverse events.  
21 Among several things, the scientists "found a 4.6-fold increase risk of serious autoimmune  
22 adverse events outcomes of gastroenteritis, a 7.6- fold increase lupus, 5.6-fold increase in  
23 rheumatoid arthritis." The authors of the study concluded, "Confirmatory epidemiological  
24 studies in other databases should be undertaken and long-term clinical consequences of HPV-  
25 linked [serious autoimmune events] should be examined."

26 158. Science Feedback does not address two facts which undermine its opinion:  
27 (1) auto-immune medical conditions are found in the HPV vaccine warning insert itself (*see*  
28 *Gardasil, Highlights of Prescribing Information*, FDA,



1 [https://www.fda.gov/files/vaccines,%20blood%20&%20biologics/published/Package-Insert---](https://www.fda.gov/files/vaccines,%20blood%20&%20biologics/published/Package-Insert---Gardasil.pdf)  
 2 Gardasil.pdf) and (2) the study cited by Dr. Brownstein found that there were increased  
 3 autoimmune adverse event findings in data from VAERS which warranted further study.  
 4 Instead, Science Feedback labels CHD's post "false fact" based on its own bare bones opinion  
 5 that no "association" (a term which Science Feedback doesn't define) between the HPV  
 6 vaccine and any of the medical conditions mentioned in this claim has been found.

7 159. Defendants were aware, or acted in reckless disregard, of these and other specific  
 8 falsities in the Science Feedback opposition "fact-check," but posted it on CHD's page  
 9 nonetheless, in furtherance of their fraudulent scheme.

10 160.



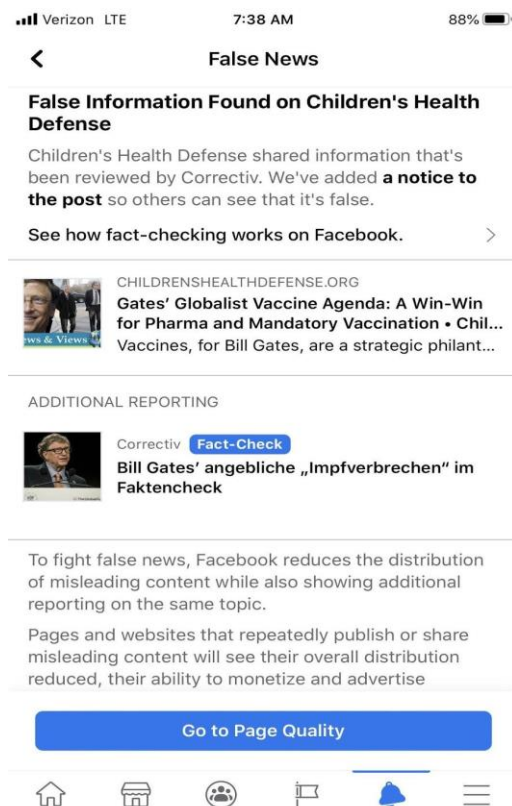
26 161.

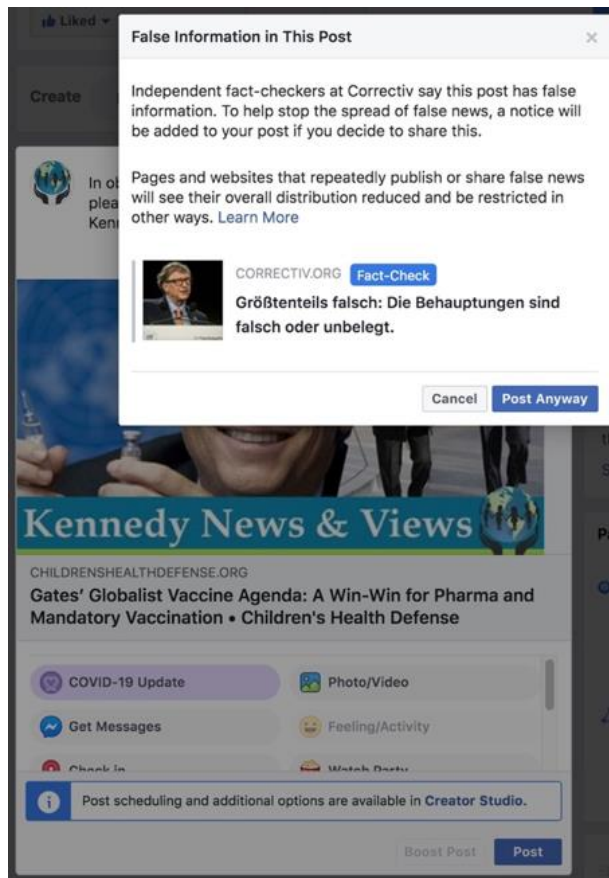
27 162. On April 9, 2020, CHD posted an RFK, Jr. editorial entitled *Gates's Globalist*  
 28 *Vaccine Agenda, a Win-Win for Pharma and Mandatory Vaccination*, which expressed RFK, Jr.'s criticisms of Bill Gates' involvement with vaccine development and deployment in the

1 third world. Facebook superimposed a fact-check claiming “False Information” with a link to  
 2 *Correctiv*, a German fact checking website with a fact-check written in German. On June 13,  
 3 2020, CHD attempted to post the editorial again. It received a link to the same German  
 4 language “fact-check” with a warning that “pages and websites that repeatedly publish false  
 5 news will see their overall distribution reduced and restricted in other ways.” Out of concern  
 6 that their Facebook page would be taken down entirely, CHD did not attempt to repost the  
 7 article.

8 163. Fact-checking an English language editorial post with a German language post as  
 9 the basis for threatening punitive actions is arbitrary and capricious. In doing so, Facebook  
 10 showed that its interest lies in labeling CHD opinion articles as “false fact,” and censoring  
 11 CHD on that false basis. Defendants were aware, or acted in reckless disregard, of these and  
 12 other specific falsities in the *Correctiv* German language opposition “fact-check,” but posted it  
 13 on CHD’s page nonetheless, in furtherance of their fraudulent scheme.

14 164.



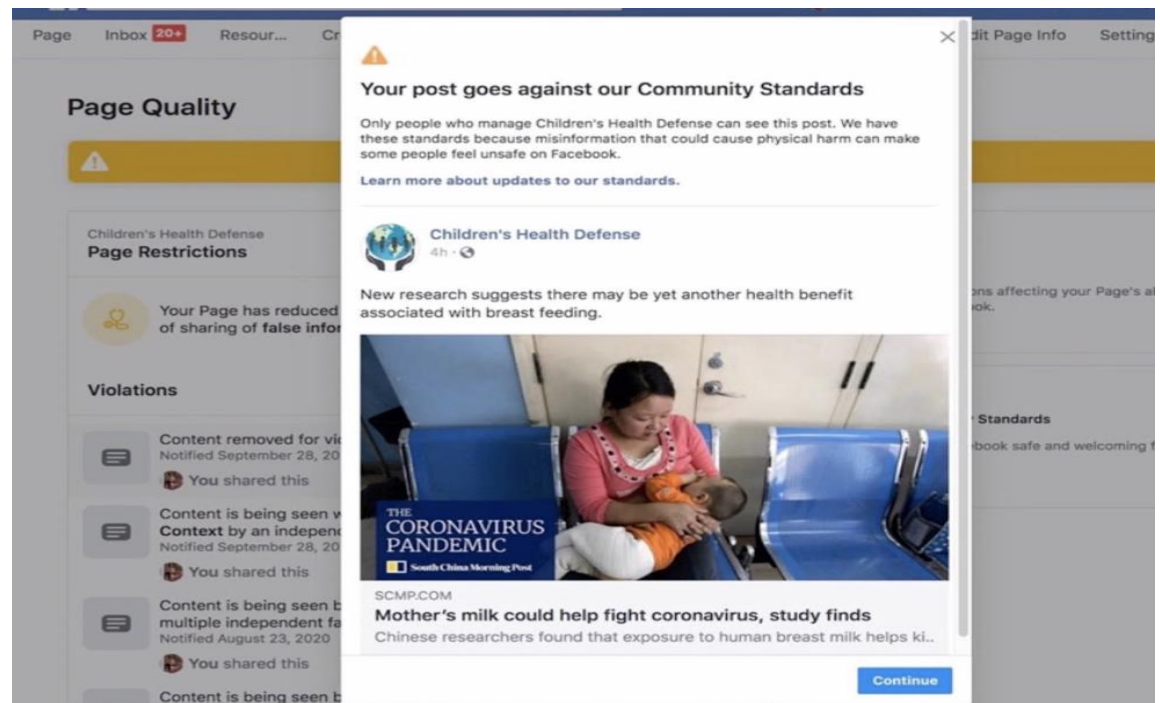


166.

167. On September 28th, 2020, CHD attempted to post a link to an article about breastfeeding and coronavirus, adding the header: *New research suggests there may be yet another health benefit associated with breastfeeding.* Facebook blocked this post and stated that the article went against Community Standards. They wrote, “We have these standards because misinformation that could cause physical harm can make some people feel unsafe on Facebook.”

168. At no point did Facebook identify any misinformation in the article or indicate what harm it threatened to cause. The article discussed research in Beijing on the effect of human breast milk on cells exposed to the Sars-CoV-2 virus in which most living virus strains were killed by the milk. That this article could actually contravene any genuine set of “Community Standards” is difficult to fathom considering that the WHO official stance is that mothers should continue to breastfeed even if they have Covid-19. Given the historical suppression of the health benefits of breastfeeding influenced by financially interested parties

1 such as the infant formula industry, this censorship is particularly outrageous. Out of concern  
 2 that their Facebook page would be taken down entirely, CHD did not attempt to repost the  
 3 article. Defendants were aware, or acted in reckless disregard, of these and other specific  
 4 falsities in their “Community Standards” notice, but posted it on CHD’s page nonetheless, in  
 5 furtherance of their fraudulent scheme.

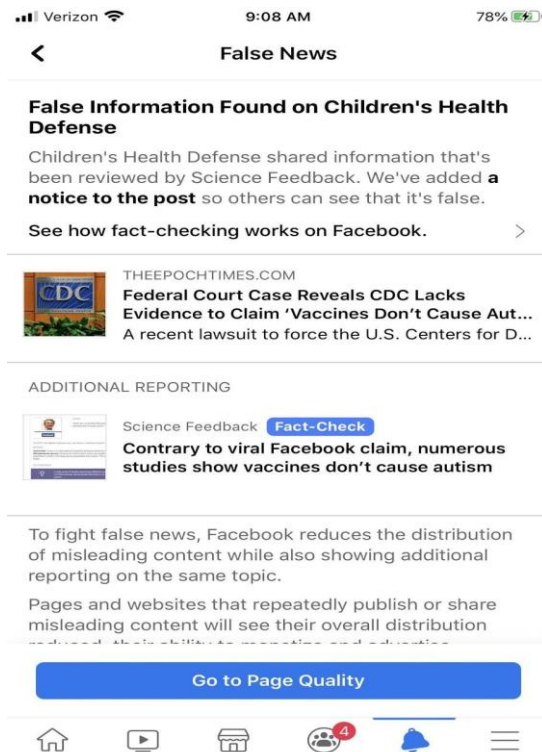


18 170. On March 3, 2020, CHD posted a link to an article from *The Epoch Times*  
 19 webpage regarding the results of a federal lawsuit by ICAN. *Stipulated Order Proving CDC*  
 20 *Has No Studies To Support Claim That Vaccines Given in First 6 Months of Life Do Not Cause*  
 21 *Autism*, ICAN (Mar. 5, 2020), [https://www.icandecide.org/ican\\_lawsuits/stipulated-order-](https://www.icandecide.org/ican_lawsuits/stipulated-order-proving-cdc-has-no-studies-to-support-claim-that-vaccines-given-in-first-6-months-of-life-do-not-cause-autism/)  
 22 [proving-cdc-has-no-studies-to-support-claim-that-vaccines-given-in-first-6-months-of-life-do-](https://www.icandecide.org/ican_lawsuits/stipulated-order-proving-cdc-has-no-studies-to-support-claim-that-vaccines-given-in-first-6-months-of-life-do-not-cause-autism/)  
 23 [not-cause-autism/.](https://www.icandecide.org/ican_lawsuits/stipulated-order-proving-cdc-has-no-studies-to-support-claim-that-vaccines-given-in-first-6-months-of-life-do-not-cause-autism/))

24 171. The lawsuit requested that the CDC produce all studies for several specific  
 25 vaccines on the CDC-schedule which prove that such vaccines do not cause autism. CDC  
 26 produced 20 studies, but only one of them pertained to the vaccines for which ICAN requested  
 27 information, and does not even support that conclusion.

28

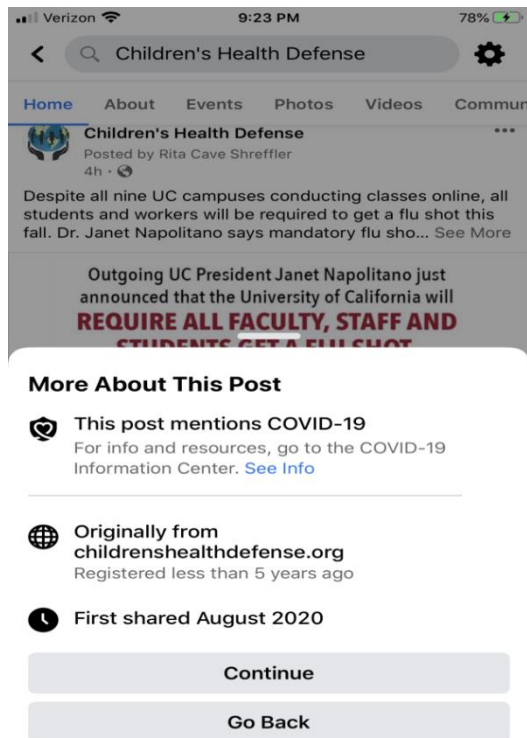
1           172. This discovery was a watershed moment. Yet Science Feedback’s “fact-check”  
 2 misrepresents the facts by repeating the trope that “numerous studies show that vaccines don’t  
 3 cause autism” — even though this statement clearly cannot reasonably be considered valid in  
 4 light of the CDC’s production in the ICAN lawsuit. Indeed, at a minimum, the phrase,  
 5 “vaccines don’t cause autism,” cannot include all vaccines in the CDC’s 72-childhood vaccine  
 6 dose schedule (16 separate vaccines), as there are simply no studies to address, much less  
 7 verify, that claim for the entire schedule. Science Feedback’s “fact-check” is deceptive and  
 8 misleading. Defendants were aware, or acted in reckless disregard of, these and other specific  
 9 falsities in the Science Feedback opposition “fact-check,” but posted it on CHD’s page  
 10 nonetheless, in furtherance of their fraudulent scheme.



24           174. On September 2, 2020, CHD posted an article about University of California  
 25 campuses requiring online students to get a flu shot and CHD’s decision to sue. Facebook  
 26 darkened the post and superimposed text that stated, “This post mentions COVID-19. For more  
 27 info and resources, go to the COVID-19 information center,” and included a link to the center.  
 28

1 175. The darkened screen with text overlay creates the impression that the information  
 2 CHD is posting is not reliable or trustworthy, and intentionally diverts and discourages users  
 3 from clicking through to read it. Defendants were aware, or acted in reckless disregard of, this  
 4 specific imputation of falsity in its grey overlay and warning label, but posted it on CHD's  
 5 page nonetheless, in furtherance of their fraudulent scheme.

6 176. In actuality, the CHD article cites several studies that show an increase in  
 7 respiratory infections associated with the flu vaccine. Given the recent mandates around the  
 8 flu vaccine, making this post less accessible goes against public health. The public has a right  
 9 to know about these studies. That is especially so since a Cochrane Vaccines Field analysis,  
 10 which evaluated studies measuring the benefits of flu vaccination and was published in the  
 11 *BMJ*, concluded: "The large gap between policy and what the data tell us (when rigorously  
 12 assembled and evaluated) is surprising .... Reasons for the current gap between policy and  
 13 evidence are unclear, but given the huge resources involved, a re-evaluation should be urgently  
 14 undertaken." Tom Jefferson, *Influenza vaccination: policy versus evidence*, *BMJ*, v.333, p. 912  
 15 (Oct. 28, 2006), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1626345/>.)



177.

1           178. On September 14, 2020, Facebook and Science Feedback labeled CHD’s post on  
 2 CoVID-19 Testing PCR by Bose Ravenel, M.D., F.A.A.P as “False Information Found on  
 3 Children’s Health Defense.” The “fact-check” placed over the post leads to an opposition  
 4 article by Science Feedback that claims that a “misinterpreted New York Times report leads to  
 5 a false claim that the number of COVID-19 cases in the US is inflated up to 90%.” This “fact-  
 6 check” is deceptive because, while the New York Times article is quoted in Dr. Ravenel’s  
 7 piece, it is merely one of several articles referenced by the author, and is not “misinterpreted”  
 8 at all. Defendants were aware, or acted in reckless disregard of, these and other specific  
 9 falsities in the Science Feedback opposition “fact-check,” but posted it on CHD’s page  
 10 nonetheless, in furtherance of their fraudulent scheme.



179.

180. On or about October 10, 2019, CHD posted a link to an editorial by RFK, Jr.  
 about vaccine injuries. The article referenced studies such as the 2010 U.S. Health and Human

1 Services (HHS) pilot study by the Federal Agency for Health Research Quality (AHRQ) that  
 2 looked at the prevalence of vaccine injuries reported to VAERS. R. Lazarus et al., *Grant Final*  
 3 *Report: Electronic Support for Public Health – Vaccine Adverse Event Reporting System*  
 4 *(ESP:VAERS)*, [https://digital.ahrq.gov/sites/default/files/docs/publication/r18hs017045-](https://digital.ahrq.gov/sites/default/files/docs/publication/r18hs017045-lazarus-final-report-2011.pdf)  
 5 [lazarus-final-report-2011.pdf](https://digital.ahrq.gov/sites/default/files/docs/publication/r18hs017045-lazarus-final-report-2011.pdf).

6 181. Science Feedback’s false and misleading “fact-check” asserts that the data  
 7 captured from VAERS does not “prove” vaccines caused any adverse event. Yet, the data that  
 8 RFK, Jr. references (2.6% of injuries, or 1 in 39) is taken directly from the study. Defendants  
 9 were aware, or acted in reckless disregard, of these and other specific falsities in the Science  
 10 Feedback opposition “fact-check,” but posted it on CHD’s page nonetheless, in furtherance of  
 11 their fraudulent scheme. Currently, the post is no longer visible on CHD’s Facebook page and  
 12 appears to have been taken down by Facebook.

13 Claim by Robert F Kennedy Jr that one  
 14 “vaccine injury” occurs for every 39  
 15 vaccinations is unsupported by scientific data

16

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CLAIM

Vaccine Injuries Ratio: One for Every 39 Vaccines Administered

VERDICT<sup>®</sup>

UNSUPPORTED

SOURCE: Robert F. Kennedy Jr., Children's Health Defense, 10 Oct. 2019

DETAILS

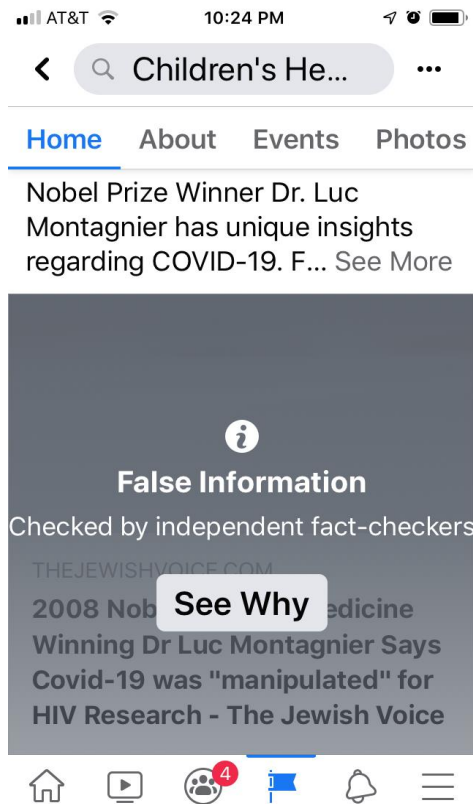
**Inadequate support:** The 1-in-39 figure is based on data captured in the U.S. VAERS system. VAERS records adverse events occurring after vaccination, but on its own does not prove that vaccines caused the adverse event.

182.

183. On April 16, 2020, CHD posted a link to an editorial in the journal *Jewish Voice*,  
 24 stating that “Nobel Prize Winner Dr. Luc Montagnier has unique insights regarding COVID-  
 25 19.” Facebook labeled the post “False Information.” The article reported that Dr. Luc  
 26 Montagnier’s work showed that the “coronavirus genome contained sequences of another  
 27 virus, ... the HIV virus (AIDS virus), but he was forced to withdraw these findings because  
 28 “the pressure from the mainstream was too great.” Science Feedback’s “fact-check” is an



1 attempt to censor a debate on the open question of the origins of COVID-19. Defendants were  
 2 aware, or acted in reckless disregard, of these and other specific falsities in the Science  
 3 Feedback opposition “fact-check,” but posted it on CHD’s page nonetheless, in furtherance of  
 4 their fraudulent scheme. The post can no longer be found on the CHD Facebook page and  
 5 appears to have been removed.



184.

185. On September 3, 2020 and thereafter, CHD posted a link to an article on their  
 21 website about oral polio vaccines causing polio outbreaks in Africa. Facebook posted a grey  
 22 overlay with the flag that CHD’s post was “fact-checked” by Science Feedback, with a link to  
 23 a Science Feedback opposition article which characterizes yet another article in the Journal,  
 24 *21st Century Wire* as “Inaccurate and Lacks Content.” Science Feedback’s “fact-check” is  
 25 false and misleading in that it does not specifically address CHD’s article. Moreover, Science  
 26 Feedback’s key point — that the oral polio vaccine contains a live but weakened form of the  
 27 poliovirus which does not cause infection — is patently false. The CHD article cites several  
 28 cases and studies, and quotes health officials who flatly state the opposite. Defendants were

1 aware, or acted in reckless disregard, of these and other specific falsities in the Science  
 2 Feedback opposition “fact-check,” but posted it on CHD’s page, in furtherance of their  
 3 fraudulent scheme, nonetheless.

4 09/03/20  
 5 **Polio Vaccine Causing Polio Outbreaks in**  
 6 **Africa, WHO Admits**  
 7 *By the Children’s Health Defense Team A year ago, news outlets briefly shone a light on the fact (a*  
 8 *fact that makes public health officials squirm) that oral polio vaccines are causing polio outbreaks.*  
 9 *With reports streaming in throughout 2019 regarding the circulation of vaccine-derived polioviruses*  
 10 *in numerous African and Asian countries, a CDC [...]*



15 186.

By the Children’s Health Defense Team

16 Health Feedback Article Reviews Claim Reviews Insights Support us

17 Search Health Feedback Search

18 Adequate immunization and improved  
 19 sanitation together protect against infection  
 20 from both wild and vaccine-derived poliovirus

21 127 SHARES f Share t Tweet +

	<p>CLAIM</p> <p>“UN Forced to Admit Gates-funded Vaccine is Causing Polio Outbreak in Africa”</p>	<p>VERDICT®</p> <p><b>INACCURATE</b></p>
--	---------------------------------------------------------------------------------------------------	------------------------------------------

22 SOURCE: Anonymous, 21st Century Wire, 4 Sep. 2020

23 DETAILS

24 **Inaccurate:** The oral polio vaccine contains a live but weakened form of the poliovirus that cannot cause the disease. In fact, virus shedding from vaccinated children can confer partial protection to unvaccinated children around them. The viruses that cause vaccine-derived polio cases are different from that contained in the oral polio vaccine, and arise only on very rare occasions in areas with poor sanitation.

25 **Lacks context:** The article fails to explain that vaccine-derived polio cases occur only in individuals who are not vaccinated, and that the number of polio cases derived from the oral vaccine is much lower than the number of cases caused by the wild poliovirus before the oral vaccine was available.

26 KEY TAKE AWAY

27 Stay informed

28 Get email news updates:

Follow us:

Method

See how we rate claims

Editor

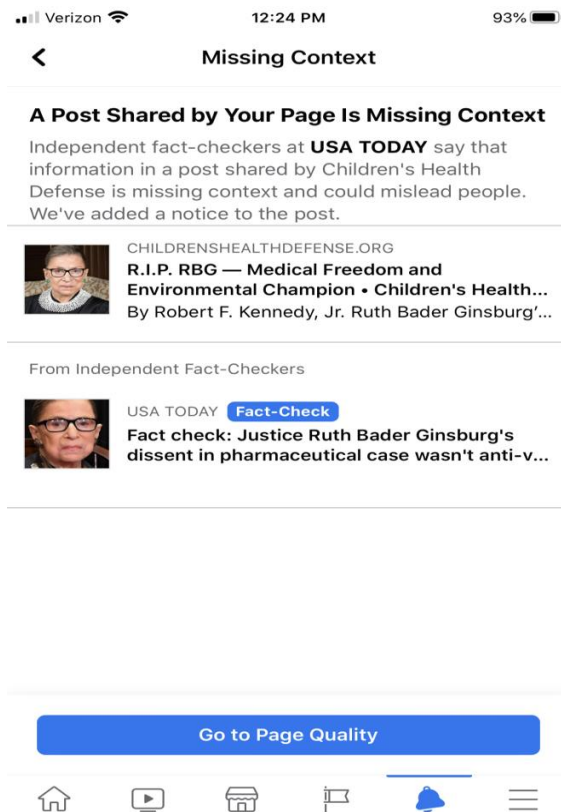
Iria Carballo-Carbajal  
 Science Editor, Health Feedback

Support our work

We depend on your support to operate. Help us create a more trustworthy Internet!

187.

1 188. On September, 20, 2020, Facebook labeled an editorial tribute to Ruth Bader  
 2 Ginsburg (“RBG”) as “Missing Context” and added a USA Today “fact-check” notice to the  
 3 post taking issue with the term, “Medical Freedom.” In CHD’s editorial post entitled *RIP RBG*  
 4 – *Medical Freedom and Environmental Champion*, RFK, Jr. writes that “Justice Ginsburg was  
 5 a champion for safe vaccines” and lists her opinions and dissents which support his assertion.  
 6 This application of “fact-checking” to editorial opinion is false and misleading. RFK, Jr.’s  
 7 opinion is not “missing context” at all. RFK, Jr. also hails RBG as an “Environmental  
 8 Champion,” and lists her written opinions which support why he believes this to be true – i.e.,  
 9 the same sort of evidence of RBG’s pedigree as he uses to support his “Medical Freedom  
 10 Champion” assertion. Defendants were aware, or acted in reckless disregard of, these and other  
 11 specific falsities in the Science Feedback opposition “fact-check,” but posted it on CHD’s page  
 12 nonetheless, in furtherance of their fraudulent scheme.



189.

190. On or about May 29, 2020, CHD attempted to “boost” (i.e., pay Facebook for  
 wider distribution) of an article entitled *Electromagnetism and Human Health: WiFi and Cell*

1 *Phones*. CHD received a notification from Facebook that the article had reached 5,014 users,  
 2 and that the boost button was “unavailable.” This is the only open instance — although there  
 3 have been many more surreptitious ones — in which Facebook either constrained, demoted or  
 4 shadowbanned CHD’s 5G content, making it available only to CHD’s principals or a highly-  
 5 limited number of CHD members, while misrepresenting to CHD and to its members that the  
 6 content is more widely-available, and can be redistributed by them across Facebook’s platform.  
 7 Over the past year or longer, the numbers of likes/shares of CHD’s 5G posts have decreased  
 8 significantly from their numbers before Facebook began its fraudulent scheme. Facebook’s  
 9 fundamental duplicity here is found both in its use of surreptitious methods and in its  
 10 pretextual reasons for banning or demoting content which threatens its profit interests in global  
 11 5G deployment.



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24 191.

## 25 **5. Disabling CHD’s Fundraising and Ads.**

26 192. On or about May 2, 2019 and thereafter, Facebook permanently deactivated the  
 27 fundraising function, or “donate” button, on CHD’s Facebook page, in disregard of CHD’s  
 28 501(c)(3) non-profit status. In its termination email to CHD, Facebook’s “Charitable Giving

1 Team” fraudulently misrepresented that it took this action because CHD’s page was “in  
2 violation of [its] fundraising terms and conditions.” *Combatting Vaccine Misinformation*,  
3 *supra*, <https://about.fb.com/news/2019/03/combating-vaccine-misinformation/>.

4 193. Also on or about May 2, 2019 and thereafter, Facebook blocked CHD and RFK,  
5 Jr., and subsequently Prizeo, their third-party advertising agency, from purchasing online ads  
6 to promote CHD, including most recently ads promoting its Summer 2020 fundraising drive. In  
7 its April 20, 2020 electronic notice rejecting the attempted transactions on behalf of CHD and  
8 RFK, Jr., Facebook fraudulently misrepresented to Prizeo that it took this action because CHD  
9 has “repeatedly posted content that has been disputed by third-party fact-checkers [for]  
10 promoting false content.”

#### 11 **6. Disabling CHD’s Right to “Appeal” These Actions.**

12 194. On or about May 1, 2019, Facebook permanently disabled the “dispute” function  
13 on CHD’s account so that neither CHD, RFK, Jr., nor Prizeo could challenge Facebook’s  
14 actions through direct submission, and Facebook has ignored CHD’s written requests over the  
15 past eighteen months that both its content and full functionality be restored to CHD’s page.

#### 16 **7. Concealment of the Overall Scheme.**

17 195. On or about May 1, 2019, for pretextual reasons alleged *infra*, Facebook began  
18 covertly to demote and/or ban content (“shadow-ban”) that CHD posted to its Facebook page,  
19 both vaccine- and 5G-related, effectively limiting its visibility and reach, and secondarily  
20 reducing ad revenue to CHD. Facebook owns a patent on social media shadowbanning. *See*  
21 *United States Patent No. 10,356,024*, Kanter et al. (Moderating content in an online forum),  
22 USPTO Patent Full-Text and Image Database, UNITED STATES PATENT AND TRADEMARK  
23 OFFICE (Jul 16, 2019), [http://patft.uspto.gov/netacgi/nph-](http://patft.uspto.gov/netacgi/nph-Parser?Sect2=PTO1&Sect2=HITOFF&p=1&u=/netahtml/PTO/search-bool.html&r=1&f=G&l=50&d=PALL&RefSrch=yes&Query=PN/10356024)  
24 [Parser?Sect2=PTO1&Sect2=HITOFF&p=1&u=/netahtml/PTO/search-](http://patft.uspto.gov/netacgi/nph-Parser?Sect2=PTO1&Sect2=HITOFF&p=1&u=/netahtml/PTO/search-bool.html&r=1&f=G&l=50&d=PALL&RefSrch=yes&Query=PN/10356024)  
25 [bool.html&r=1&f=G&l=50&d=PALL&RefSrch=yes&Query=PN/10356024](http://patft.uspto.gov/netacgi/nph-Parser?Sect2=PTO1&Sect2=HITOFF&p=1&u=/netahtml/PTO/search-bool.html&r=1&f=G&l=50&d=PALL&RefSrch=yes&Query=PN/10356024) (last visited Aug.  
26 15, 2020). The patent describes the mechanism by which shadowbanning is accomplished: In  
27 one embodiment, the social networking system blocks banned comments by analyzing the text  
28 of the comments. For example, if a comment includes a profane word, as provided in a list of

1 banned words, the social networking system will not display the comment to other users of the  
2 social networking system.

3 196. Additionally, in one embodiment, Facebook also performs a “sentiment analysis”  
4 to identify whether a comment includes sentiment that is banned under Facebook’s community  
5 standards, e.g., derogatory racial epithets. Finally, Facebook’s patent permits it to train a  
6 machine learning classifier to block comments based on Facebook content moderators’ actions  
7 of manually deleting comments or unblocking comments in the online forum. In one  
8 embodiment, the blocked comments are not displayed to the wider community of Facebook  
9 users. However, the blocked comments are displayed to the commenting user and his or her  
10 friends within the social networking system. As such, Facebook’s software creates a  
11 simulacrum in which the “offending” user — here CHD — is not aware that their comment or  
12 content is not displayed to other users of the forum. Since May 2019, Facebook has utilized  
13 this deceptive scheme in order to covertly limit or block CHD’s content while misrepresenting  
14 the visibility and reach of that content to CHD itself, and misrepresenting the totality of CHD’s  
15 content to all third-party users.

16 197. Moreover, a “whistleblower” recently disclosed Facebook internal documents,  
17 which reveal the extent of Facebook’s sophisticated designs aimed at user behavior  
18 modification in order to limit the spread of “undesirable” information. Facebook boasted  
19 internally that it has employed these methods based on its psychological research  
20 demonstrating their efficacy because nearly all third-party users (95%) will be dissuaded from  
21 clicking through to the original content by the very design and trade dress elements of  
22 Facebook’s warnings. This Facebook design document shows a technical discussion of such  
23 mechanisms:

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## Seiji Yamamoto - Data Science Manager

September 28, 2017

**Introducing friction via the Troll Twilight Zone will confuse and demoralize them.**

### Tactic 1: Interfere with troll operations

- Troll Twilight Zone GK
  - 1. Find troll accounts and add them to a special GK
  - 2. When triggered, the users behind the Troll GK will experience the following
    - drastically limited bandwidth for a few hours
    - auto-logout every few minutes
    - auto-direct to home timeline every few minutes
    - comments and posts that they spend time crafting will magically fail to upload, then user will be logged out
  - 3. Trigger the "special features" when
    - Raids are detected, e.g. when known troll associates are simultaneously viewing the same content
    - User uploads a comment or post with a match on our bank of known troll munitions (see Appendix)
    - Leading up to important elections (pre-cautionary)
    - Just because it's Nov 4 (pre-cautionary)

198.



## Seiji Yamamoto - Data Science Manager

September 28, 2017

**When a user does something egregious, warranting an account suspension or deletion, we should notify the friend network...**

### Tactic 2: Notify friends when high-confidence account suspensions and deletions take place

- When a user does something egregious, warranting an account suspension or deletion, we should notify the friend network
  - "John Smith's account has been suspended for 7 days because he shared hate speech in the group Kekistani Special Forces"
  - "John Smith's account has been deactivated for community violations"
  - "Four of your direct friend connections were found to be fraudulent accounts so we have deactivated them. Learn more about how to spot fake accounts [here](#)."
- Fear of being outed as a miscreant is what regulates behavior in real life and we should re-introduce that to the online world
- Notified users who accidentally befriended the offender might be more mindful of suspicious accounts, increasing overall herd immunity
- Notified users who are also offenders might curtail their own activities
- We don't necessarily need to do many of these to strike fear in the hearts of trolls, so these can be very high touch notifications
- This would provide clear public signaling that FB takes the issue seriously

199.

1           200. At an April 17, 2020, CNN “Global Town Hall,” Zuckerberg boasted that “we  
2 work with independent fact-checkers [] and warning labels work. We know that because 95%  
3 of the time when someone sees a piece of information that has a fact-check on it, they don’t  
4 click through and consume that information.” *Entire CNN April 16 coronavirus town hall*,  
5 *supra*, [https://www.cnn.com/videos/business/2020/04/17/entire-april-16-coronavirus-town-](https://www.cnn.com/videos/business/2020/04/17/entire-april-16-coronavirus-town-hall-part-5-sot-vpx.cnn)  
6 [hall-part-5-sot-vpx.cnn](https://www.cnn.com/videos/business/2020/04/17/entire-april-16-coronavirus-town-hall-part-5-sot-vpx.cnn).

7           201. Indeed, Facebook has used “A/B testing” (testing users’ response to variants) to  
8 achieve its intended psychological effect on user behavior. Essentially, similar demographic  
9 test-groups are shown two (or more) different behavior modification mechanisms, and the most  
10 effective mechanism is chosen based on statistical results in terms of which variant achieves  
11 the desired user behavior. *About A/B Testing*, Business Help Center, FACEBOOK FOR BUSINESS,  
12 <https://www.facebook.com/business/help/1738164643098669?id=445653312788501> (last  
13 visited Aug. 14, 2020).

14           202. The “whistleblower” also described Facebook’s use of “troll scores” that were  
15 assigned to accounts and used to assess what punitive actions it would take against the  
16 accountholder. There is no accountability or accountholder recourse, since Facebook compiles  
17 its punitive “troll scoring” without the holder’s knowledge. *Anonymous – Facebook*, PROJECT  
18 VERITAS (Apr. 6, 2020), <https://www.projectveritas.com/news/anonymous-facebook/>.

19           203. The “whistleblower” also revealed Facebook’s use of a “deboosting” score,  
20 which it uses to “deboost” content produced by the accountholder’s page. Facebook deployed a  
21 similar, if not the same algorithm, to limit the visibility and reach of CHD content. As  
22 explained by the whistleblower and screenshots obtained by Project Veritas, the  
23 ActionDeboostLiveDistribution tag is designed to “deboost” content produced by the pages it  
24 is attached to, specifically suppressing the distribution of livestreams from that page. A current  
25 Facebook employee confirmed to Project Veritas that the code could reduce a “video’s  
26 visibility in news feeds, remove sharing features, and disable interactive notifications.”

27           204. The “whistleblower’s” account elaborates upon newspaper and magazine articles  
28 about internal and top-down biases in Facebook’s content control processes. A *Wired*



1 magazine article reported on Facebook’s use of a custom algorithm — “Click Gap” —  
2 specifically to limit the spread of whatever Facebook terms “fake news.” Facebook deployed a  
3 similar, if not the same algorithm, to damage CHD, by covertly limiting the visibility and reach  
4 of its content. An April 18, 2019 *Wired* article explains: “Click-Gap, which Facebook is  
5 launching globally today, is the company’s attempt to limit the spread of websites that are  
6 disproportionately popular on Facebook compared with the rest of the web. If Facebook finds  
7 that tons of links to a certain website are appearing on Facebook, but few websites on the  
8 broader web are linking to that site, Facebook will use that signal, among others, to limit the  
9 website’s reach.” *Facebook Is Changing News Feed (Again) to Stop Fake News*, WIRED (Apr.  
10 10, 2019), <https://www.wired.com/story/facebook-click-gap-news-feed-changes/>.

11 205. A CNET article reported that Facebook planned to use “updated machine  
12 learning” to detect more potential “hoaxes” and send them to third-party “fact-checkers.”  
13 Facebook used the same or similar machine learning systems to detect and flag CHD content  
14 for sending to Facebook’s “fact-checker” affiliates. R. Cheng, *Facebook will use machine  
15 learning to fight fake news*, CNET (Aug. 3, 2017), [https://www.cnet.com/news/facebook-will-  
16 use-machine-learning-to-fight-fake-news/](https://www.cnet.com/news/facebook-will-use-machine-learning-to-fight-fake-news/).

17 206. The Doe defendants comprise, *inter alia*, members of an enterprise with or  
18 within Facebook working directly to label, suppress, and censor vaccine and 5G-network  
19 related content on CHD’s Facebook page. The enterprise operates under the direct supervision  
20 and control of Facebook’s corporate leadership and Zuckerberg. It includes individual  
21 Facebook officers or employees (known only to Facebook) responsible for key design elements  
22 that enable widespread AI-driven “fact-check” content suppression and manipulation. The  
23 enterprise manipulates technical processes to “shadow ban” CHD, i.e., deceive Plaintiff as to  
24 the reach and visibility of content on its Facebook page, and prevent its content from being  
25 disseminated. The enterprise also exploits internal marketing and psychometric data to  
26 “sandbox” users, i.e., selectively hide content from users based on their psychological profile,  
27 and ward off the possibility that alternative content may influence their views. “Sandbox” is an  
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1 apt term for isolating users in an echo chamber of like-minded viewpoints where existing  
2 views are reinforced, and alternative or opposing ideas are not considered.

3 207. Facebook shows CHD’s vaccine- and 5G network-safety content to CHD’s  
4 already-“decided” users, but Facebook does not show it to any other “undecided” or “opposed”  
5 users. Thus, Facebook seeks to rigidify users’ positions on matters of public concern, and  
6 foreclose public debate, or any possibility of the societal “ultimate good [] reached by free  
7 trade in ideas” (*see Abrams v. United States*, 250 U.S. at 630 (Holmes, J., dissenting)), while  
8 concealing its methods and effects. Facebook, with the government’s assistance, blocks content  
9 critical of the CDC and WHO. The First Amendment protects against this new “privatized”  
10 form of governmental censorship. This is also a classic method of fraud concealment: if  
11 Plaintiff does not know what defendants are telling or showing third parties, Plaintiff is less  
12 likely to sue. *See, e.g., Bridge v. Phoenix Bond & Indem. Co.*, 553 U.S. 639 (2008) (“suppose  
13 an enterprise that wants to get rid of rival businesses mails misrepresentations about them to  
14 their customers and suppliers, but not to the rivals themselves”).

15 208. On December 27, 2018, New York Times reporter Max Fisher wrote that, based  
16 on his review of Facebook internal documents, Facebook’s “closely-held rules” for moderating  
17 content on its website had “numerous gaps, biases and outright errors.” Fisher characterized  
18 those errors as a byproduct of the over- and under-inclusive nature of binary rules when  
19 applied to “highly complex issues,” plus the highly time-sensitive (“eight to 10 seconds per  
20 post”) workload constraint Facebook puts on the decisions at issue. He quoted Facebook  
21 officer Bickert as saying, “we have billions of posts every day, we’re identifying more and  
22 more potential violations using our technical systems. At that scale, *even if you’re 99 percent*  
23 *accurate, you’re going to have a lot of mistakes*” (emphasis added). (Here, Facebook’s  
24 wrongdoing is deliberate, a form of decision-making which Bickert’s reference to “mistakes”  
25 elides.) Fisher reported that, “By telling moderators to follow the rules blindly, Facebook  
26 hopes to guard against bias and to enforce consistency.” But, “Facebook has little visibility into  
27 the giant outsourcing companies, which largely police themselves, and has at times struggled  
28 to control them.” M. Fisher, *Inside Facebook’s Secret Rulebook for Global Political Speech*,

1 NEW YORK TIMES (Dec. 27, 2018), [https://www.nytimes.com/2018/12/27/world/facebook-](https://www.nytimes.com/2018/12/27/world/facebook-moderators.html)  
2 moderators.html.

3 209. Fisher further reported that, “[t]hough Facebook says its focus is protecting  
4 users, the documents suggest that other concerns come into play. [For example, Pakistan-  
5 related] guidelines warn moderators against creating a “PR fire” by taking any action that  
6 could “have a negative impact on Facebook’s reputation or even put the company at legal risk.  
7 [. . .] And its decisions often skew in favor of governments, which can fine or regulate  
8 Facebook.” *Id.*

9 210. More recently, on May 16, 2020, New York Times reporters Mike Isaac, Sheera  
10 Frenkel and Cecilia Kang wrote in their article *Now More Than Ever, Facebook Is a ‘Mark*  
11 *Zuckerberg Production’* that:

12 [A]t Facebook, for more than a decade, Mark Zuckerberg was a  
13 product guy’s product guy. In practice, this meant [. . .] he was  
14 comfortable delegating in areas that interested him less keenly —  
15 including [. . .] the realm of Facebook policy around what kind of  
16 speech was and was not permitted. Those subjects fell into a  
specific category: Too important to ignore, but not exactly what a  
young billionaire wants to spend all of his time on.

17 [After the 2016 election] Mr. Zuckerberg resolved to take control  
18 of the global superpower in which he already dominated the voting.  
19 [In July 2018,] Mr. Zuckerberg called a meeting with his top  
20 lieutenants. [. . .] *Mr. Zuckerberg said he would be making more*  
21 *decisions on his own*, based on his instincts and vision for the  
22 company. [. . .] *Mr. Zuckerberg also began to participate more*  
23 *directly in meetings that had previously been Ms. Sandberg’s*  
24 *domain — from the nitty-gritty of taking down disinformation*  
25 *campaigns, to winding philosophical discussions on how Facebook*  
26 *ought to handle political ads. [. . .] Other board disagreements,*  
27 *specifically around political advertising and the spread of*  
misinformation, always ended with Mr. Zuckerberg’s point of view  
winning out. [. . .] To replace [departing board members], Mr.  
Zuckerberg picked [. . .] Peggy Alford, the former chief financial  
officer of the Chan Zuckerberg Initiative.

28 Mike Isaac, Sheera Frenkel & Cecilia Kang, *Now More Than Ever, Facebook Is a ‘Mark*

1 *Zuckerberg Production,* NEW YORK TIMES (May 16, 2020),  
2 <https://www.nytimes.com/2020/05/16/technology/zuckerberg-facebook-coronavirus.html>  
3 (emphases added).

4 211. Facebook contracted with Science Feedback, a French organization which  
5 Facebook funds, to “fact-check” CHD’s content, and directed Science Feedback to deploy  
6 Facebook’s circular WHO and CDC definitions of “vaccine misinformation.” Science  
7 Feedback is wholly dependent upon Facebook, both financially and editorially. On information  
8 and belief, neither Facebook nor Science Feedback makes any *genuinely* independent effort to  
9 check the veracity of the censored or labeled CHD content.

10 212. Instead, Facebook created a classification system that provides Science Feedback  
11 with a limited set of nine pre-populated classifications to apply to a posting:

- 12 • False
- 13 • Partly False
- 14 • True
- 15 • False Headline
- 16 • Not Eligible
- 17 • Satire
- 18 • Opinion
- 19 • Prank Generator
- 20 • Not Related

21 *Fact-Checking on Facebook*, Business Help Center, FACEBOOK FOR BUSINESS,  
22 <https://www.facebook.com/help/publisher/182222309230722> (last visited Aug. 14, 2020).

23 213. Apparently, if Science Feedback decides that an article is not “false,” “partly  
24 false,” or “false headline” but falls into any of the other six classifications (i.e., True, Not  
25 Eligible, Satire, Opinion, Prank Generator, and Not Related), Facebook does not display (or  
26 does not prominently display) a link to the “See Why” window or to Science Feedback’s  
27 oppositional article.

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1           214. Under this arrangement, Facebook pays Science Feedback to classify content,  
2 and Facebook flags content for Science Feedback to evaluate and classify as part of their  
3 partnership. Science Feedback is paid by Facebook to find false stories, and here willfully  
4 marked Plaintiff's content as "false" or "partly false" in order to generate traffic to its website  
5 through the warning and link, and to further its contractual partnership with Facebook. The  
6 "fact-checking" system Facebook created encourages this type of mislabeling. The Science  
7 Feedback fact-checkers have an obvious incentive to categorize a post as "False" rather than an  
8 accurate but less damaging classification of "Opinion," because that is the only way Facebook  
9 will insert the clear warning with a prominent link to Science Feedback's oppositional article.  
10 Facebook deceives its users by materially misrepresenting that its "fact-checkers" are  
11 "independent," contractually or editorially. Significantly, the arrangement also permits  
12 Facebook and Science Feedback to create categorical exemptions from "fact-checking" where  
13 it suits Zuckerberg's political or other biases, e.g., the "opinion" exemption for climate science  
14 deniers. Emily Atkin, *Facebook creates fact-checking exemption for climate deniers, supra*,  
15 <https://heated.world/p/facebook-creates-fact-checking-exemption>.

16           215. As to each of the CHD and RFK, Jr. articles and video posts, which Facebook  
17 and Science Feedback, or Poynter/PolitiFact labeled "False Information" or "Partly False  
18 Information," *see supra*, Science Feedback and Poynter/PolitiFact's opposition articles show,  
19 at most, that the specific matter asserted was the opinion of its authors on fully-disclosed  
20 limited facts, not that it was a "false" or "partly false" statements of fact. Nonetheless,  
21 Facebook directed its surrogate "fact-checkers" to label these posts "false" or "partly false," as  
22 a pretext for Facebook to publish the grey overlay with those "false" or "partly false  
23 information" labels over CHD's posts, and to publish links to their opposition content. The  
24 "fact-checker" surrogates complied because it was in their financial interests to do so. Hence,  
25 Science Feedback designated the articles and videos as "False" or "Partly False," not  
26 "Opinion." Facebook then proceeded to gray out the articles and videos and placed its  
27 warnings over them. By using Facebook's pre-populated options other than "opinion," to  
28 mislabel the articles and videos, Science Feedback and Facebook intentionally tell the public

1 that Plaintiff is presenting false information, when they know that the information presented is,  
2 at most, opinion and *not* false fact.

3 **8. Continuing Injuries to CHD.**

4 216. CHD's primary source of revenue derives from membership dues and donations  
5 that CHD solicits on its website, through PayPal and Stripe, and formerly on its Facebook  
6 page. In addition to that monetary interest, attracting visitors to the CHD Facebook page, and  
7 through it to CHD's website, enables CHD and RFK, Jr., their authors, and readers to associate  
8 and to engage in speech on matters of mutual concern. Prior to March 2019, CHD's Facebook  
9 page content generated significant third-party user traffic to CHD's website, and significant  
10 membership fees and donations to CHD.

11 217. From January to May 2019, CHD generated \$41,241 in user donations from its  
12 Facebook page. In May 2019 alone, CHD received \$24,872, until Facebook deactivated CHD's  
13 donate function. CHD has not received any further donation revenue through Facebook.

14 218. Facebook has exclusive possession, custody, and control of evidence to assess  
15 the full extent of the damages to Plaintiff's business and property interests which defendants'  
16 deceptions have proximately caused, e.g.: (1) how many visitors to CHD's page instead click  
17 through to "go to CDC.gov"; (2) how many are diverted from CHD's content due to "fact-  
18 check" labels; (3) how much has Facebook-wide traffic of such content decreased; (4) what are  
19 the daily click-through, cost-per-click, conversion, and cost-per-action rates for visitors to  
20 Plaintiff's Facebook page — all of which is information Facebook compiles in the ordinary  
21 course of its business operations of gathering, manipulating, and marketing psychometric and  
22 other data on users. Plaintiff lacks access to these missing pieces of the puzzle.

23 219. As a result of defendants' actions, third-party user visits from CHD's Facebook  
24 page to CHD's website declined significantly since March 2019, while visits to CHD's website  
25 grew from other interactive computer services (e.g., Bing and DuckDuckGo) that have not  
26 implemented Facebook's smear campaign. CHD's Twitter account has grown by 80,000  
27 followers during the past twelve months, while its Facebook account has grown by only 20,000  
28 followers, despite the smear campaign.

1           220. Additionally, CHD’s trade reputation and “goodwill” are traditional property  
2 rights whose value defendants have diminished through their fraudulent misconduct. CHD’s  
3 reputation for accurate and timely content is a source of its goodwill, and paramount to its  
4 operations and success. “[A] man’s right to the continued enjoyment of his trade reputation and  
5 the good will that flows from it, free from unwarranted interference by others, is a property  
6 right[.]” *Hanover Star Milling Co. v. Metcalf*, 240 U.S. 403, 413 (1916). Defendants targeted  
7 CHD, and the injuries to CHD’s organizational trade and reputation were both foreseeable and  
8 intended. *Bridge v. Phoenix Bond & Indem. Co.*, 553 U.S. at 658.

9           221. CHD is the most direct victim of Facebook’s “vaccine misinformation” smear  
10 campaign, and is best positioned to sue; its financial losses are provable, and far more than a  
11 “bit part in the scheme” (*Kelly v. United States*, 140 S. Ct. 1565, 1573 (2020)), and there is no  
12 risk of duplicative recoveries because no one else can recover CHD’s losses. At the same time,  
13 Facebook controls the proof of that portion of claimed damages attributable to the defendants’  
14 unlawful conduct. *See Lexmark International, Inc. v. Static Control Components, Inc.*, 572  
15 U.S. 118, 134 S. Ct. 1377, 1393 (2014) (“When a defendant harms a Plaintiff’s reputation by  
16 casting aspersions on its business, the Plaintiff’s injury flows directly from the audience’s belief  
17 in the disparaging statements....”).

18           **D. Material Questions of Vaccine Safety.**

19           222. By 1986, the “litigation costs associated with claims of damage from vaccines  
20 had forced several companies to end their vaccine research and development programs as well  
21 as to stop producing already-licensed vaccines.” Institute of Medicine, *Adverse Events*  
22 *Associated with Childhood Vaccines: Evidence Bearing on Causality*, at 2 (1994). In response,  
23 Congress enacted the National Childhood Vaccine Injury Act, codified at 42 U.S.C. §§ 300aa-  
24 1 through 300aa-34 (the “1986 Act”), which virtually eliminated economic liability for  
25 pharmaceutical companies for injuries caused by their vaccines. 42 U.S.C. § 300aa-11 (“No  
26 person may bring a civil action for damages in the amount greater than \$1,000 or in an  
27 unspecified amount against a vaccine administrator or manufacturer in a State or Federal court  
28 for damages arising from a vaccine-related injury or death.”); *Bruesewitz v. Wyeth LLC*, 562

1 U.S. 223, 243 (2011) (“we hold that the National Childhood Vaccine Injury Act preempts all  
2 design-defect claims against vaccine manufacturers brought by Plaintiffs who seek  
3 compensation for injury or death caused by vaccine side effects”); *cf. Davis v. Wyeth*  
4 *Laboratories*, 399 F.2d 121, 129-30 (9th Cir. 1968) (recipient of polio vaccine entitled to make  
5 a “true choice judgment” whether to be inoculated with Sabin III vaccine, an “unavoidably  
6 unsafe” product).

7 223. By granting pharmaceutical companies immunity from actual or potential  
8 liability from injuries caused by vaccines, Congress eliminated the market forces relied upon to  
9 assure the safety of these typically mandatory consumer products. Recognizing that it  
10 eliminated the financial incentive for pharmaceutical companies to assure the safety of their  
11 vaccine products, Congress placed the responsibility for vaccine safety in the hands of the  
12 Department of Health and Human Services (“HHS”) and its agencies, most pertinently here,  
13 the CDC. 42 U.S.C. § 300aa-27(a) (“Mandate for safer childhood vaccines”) provides, *inter*  
14 *alia*, that the Secretary of HHS “(1) shall promote the development of childhood vaccines that  
15 result in fewer and less serious adverse reactions [ . . . ], and (2) make or assure improvements  
16 in, and otherwise use the authorities of the Secretary with respect to . . . research on vaccines,  
17 in order to reduce the risks of adverse reactions to vaccines.”

18 224. In executing their statutory duties, HHS and the CDC must avoid conflicts of  
19 interest with pharmaceutical companies because these agencies are responsible for promoting  
20 safe vaccines, and for defending against claims of vaccine injuries. Indeed, the CDC is the  
21 single largest purchaser and distributor of vaccines (nearly forty percent of the total  
22 administered) in the United States. In 2019 alone, the CDC entered into contracts to purchase  
23 and distribute up to \$5.1 billion of the three leading manufacturers’ vaccine products.  
24 *See 2019 Vaccines for Children*, State of Georgia, GOVERNMENT CONTRACTS,  
25 [https://www.governmentcontracts.us/government-contracts/opportunity-](https://www.governmentcontracts.us/government-contracts/opportunity-details/NBD00159991194385117.htm)  
26 [details/NBD00159991194385117.htm](https://www.governmentcontracts.us/government-contracts/opportunity-details/NBD00159991194385117.htm) (last visited Aug. 15, 2020); *Indefinite Delivery*  
27 *Contract 75D30119D04518*, Federal Contract IDV Award, GOVTRIBE (Jun. 29, 2020),  
28 <https://govtribe.com/award/federal-idv-award/indefinite-delivery-contract-75d30119d04518>;



1 2019 Vaccines for Children, State of Georgia, GOVERNMENT CONTRACTS AND BIDS,  
2 <https://www.govcb.com/government-bids/vaccines-for-children->  
3 [NBD00159022703927119.htm](https://www.govcb.com/government-bids/vaccines-for-children-NBD00159022703927119.htm) (last visited Aug. 15, 2020).

4 225. And, while HHS is obliged to report to Congress every two years on the actions  
5 HHS has taken to make and assure improvements in the licensing, manufacturing, adverse  
6 reaction reporting, research, safety and efficacy testing of vaccines in order to reduce the risk  
7 of adverse vaccine reactions, HHS apparently has never complied with that statutory  
8 obligation. *See Stipulated Order*, U.S.D.C. S.D. N.Y. No. 18-cv-03215 (JMF) (filed Jul. 9,  
9 2018) & *Press Release*, INFORMED CONSENT ACTION NETWORK (ICAN) (Jul. 13, 2018),  
10 <https://www.icandecide.org/wp-content/uploads/2019/09/Stipulated-Order-copy-1.pdf>; 42  
11 U.S.C. § 300aa-27.

12 226. Under the 1986 Act, the CDC plays a central role in ensuring the safety of the 72  
13 doses of vaccines on the CDC’s Child and Adolescent Immunization Schedule. Most of these  
14 vaccines, which are vigorously promoted by the CDC for injection into America’s children, are  
15 manufactured and sold by four pharmaceutical companies -- GlaxoSmithKline (“GSK”),  
16 Sanofi S.A. (“Sanofi”), Pfizer, and Merck & Co. (“Merck”).

17 227. If a vaccine injures an individual, the injured individual must (pursuant to the  
18 1986 Act) bring a claim in the National Vaccine Injury Compensation Program (“VICP”),  
19 administered in the Federal Court of Claims. In such actions, the Secretary of HHS is the  
20 respondent with the Department of Justice as its litigation counsel, and these government  
21 lawyers regularly and vigorously defend against any claim that a vaccine caused injury. (42  
22 U.S.C. § 300aa-12; *Vaccine Injury Compensation Program: Addressing Needs and Improving*  
23 *Practices, Sixth Report by the Committee on Government Reform*, Union Calendar No. 575,  
24 106th Congress, 2d Session, House Report 106–977, HOUSE COMMITTEE ON GOVERNMENT  
25 REFORM HEARINGS (Oct. 12, 2000), [https://www.congress.gov/106/crpt/hrpt977/CRPT-](https://www.congress.gov/106/crpt/hrpt977/CRPT-106hrpt977.pdf)  
26 [106hrpt977.pdf](https://www.congress.gov/106/crpt/hrpt977/CRPT-106hrpt977.pdf). As explained by HHS, which administers the program, listed injuries “are  
27 presumed to be caused by vaccines unless another cause is proven” if occurring within a given  
28 time frame post-vaccination. *Frequently Asked Questions*, National Vaccine Injury

1 Compensation Program, HEALTH RESOURCES & SERVICES ADMINISTRATION,  
 2 <https://www.hrsa.gov/vaccine-compensation/FAQ/index.html> (last visited Aug. 14, 2020).  
 3 Total compensation paid over the life of the VICP from FY 1988 through May 2019 is  
 4 approximately *\$4.1 billion*. *Data & Statistics*, HEALTH RESOURCES & SERVICES  
 5 ADMINISTRATION (May 1, 2019), [https://www.hrsa.gov/sites/default/files/hrsa/vaccine-](https://www.hrsa.gov/sites/default/files/hrsa/vaccine-compensation/data/monthly-stats-may-2019.pdf)  
 6 [compensation/data/monthly-stats-may-2019.pdf](https://www.hrsa.gov/sites/default/files/hrsa/vaccine-compensation/data/monthly-stats-may-2019.pdf).

7 228. At the same time, the plight of America’s children is that 54% (40 million) of  
 8 them suffer from chronic illnesses such as deadly allergies, asthma, eczema, anxiety,  
 9 depression, sensory abnormalities; 13% (9 million) are in special education; 11% (8 million)  
 10 have Attention Deficit Hyperactivity Disorder (“ADHD”); 2.7% (2 million) have or will be  
 11 diagnosed with Autism; 0.0035% (260,000) will be diagnosed with cancer by age 19; and  
 12 49.5% of teens aged 13 to 18 have (or have had) a mental health disorder. *See, e.g.*, Christina  
 13 D.Bethell, Ph.D. et al., *A National and State Profile of Leading Health Problems and Health*  
 14 *Care Quality for US Children: Key Insurance Disparities and Across-State Variations*,  
 15 ACADEMIC PEDIATRICS, Volume 11, Issue 3, Supplement, May–June 2011, pp. S22-S33,  
 16 <https://www.sciencedirect.com/science/article/pii/S1876285910002500> [54% chronic illness];  
 17 *Students with Disabilities*, NATIONAL CENTER FOR EDUCATION STATISTICS (May 2020),  
 18 [https://nces.ed.gov/programs/coe/indicator\\_cgg.asp](https://nces.ed.gov/programs/coe/indicator_cgg.asp) [13% special education]; Susanna N.  
 19 Visser, MS et al., *Trends in the Parent-Report of Health Care Provider-Diagnosed and*  
 20 *Medicated Attention-Deficit/Hyperactivity Disorder: United States, 2003–2011*, JOURNAL OF  
 21 THE AMERICAN ACADEMY OF CHILD & ADOLESCENT PSYCHIATRY, Volume 53 Number 1  
 22 (January 2014), [https://jaacap.org/article/S0890-8567\(13\)00594-7/fulltext](https://jaacap.org/article/S0890-8567(13)00594-7/fulltext) [11% ADHD]. This  
 23 level of chronic illness and disability among children is unprecedented in the United States.

24 229. Significantly, no scientific studies have tested the entire immunization schedule  
 25 or compared the differences in health outcomes between children vaccinated according to the  
 26 CDC’s full 72-dose vaccine schedule and children who have remained partially, or completely,  
 27 unvaccinated. *See* Institute of Medicine, *Childhood Immunization Schedule and Safety:*  
 28 *Stakeholder Concerns, Scientific Evidence, and Future Studies*, NATIONAL ACADEMIES PRESS

1 (2013), pp. 5-6, <https://doi.org/10.17226/13563>. Simply put, no studies have refuted the  
2 biologically-plausible hypothesis that the CDC's vaccine schedule is contributing *in some*  
3 *degree* to the epidemic of chronic childhood illnesses.

4 230. Vaccines are among the pharmaceutical industry's best-selling products. Andrew  
5 Ward, *Vaccines are among big pharma's best-selling products*, FINANCIAL TIMES (Apr. 24,  
6 2016), <https://www.ft.com/content/93374f4a-e538-11e5-a09b-1f8b0d268c39>. According to  
7 two recent market research reports, the global vaccine market was over \$41 billion in 2019, is  
8 projected to reach over \$58 billion by 2024, and over \$93 billion by 2026. *Vaccines Market -*  
9 *Global Forecast to 2024*, MARKETSandMARKETS (January 2020),  
10 <https://www.marketsandmarkets.com/Market-Reports/vaccine-technologies-market-1155.html>;  
11 *Vaccines Market Size, Share & Industry Analysis, 2020-2027*, FORTUNE BUSINESS INSIGHTS,  
12 <https://www.fortunebusinessinsights.com/industry-reports/vaccines-market-101769> (last  
13 visited Aug. 14, 2020).

14 231. Yet, as bioethics professor Carl Elliott wrote in a July 2, 2020 New York Review  
15 of Books article, “[I]t would also be a mistake to assume that drug makers will be honest and  
16 open about their research results. It is not just that many have repeatedly failed to publish  
17 unfavorable data. As the former editor of The British Medical Journal has written, many have  
18 simply designed their research studies to produce the results they want. Medical journal editors  
19 have been raising the alarm about this for over fifteen years now. Between 1991 and 2010,  
20 according to Public Citizen, the pharmaceutical industry was the leading defrauder of the  
21 federal government, as measured by penalties paid for violating the False Claims Act.” Carl  
22 Elliott, *An Ethical Path to a Covid Vaccine*, NEW YORK REVIEW OF BOOKS (July 20, 2020),  
23 <https://www.nybooks.com/articles/2020/07/02/ethical-path-covid-19-vaccine/>.

24 232. Criticism of the CDC, discussion of conflicts of interest within the organization  
25 and their effect on vaccine safety were open topics among the public and lawmakers not long  
26 ago. In 2006, Reps. Dr. Dave Weldon (R-FL), and Carolyn Maloney (D-NY), introduced a bill  
27 that would give responsibility for vaccine safety to an independent agency within DHHS, and  
28

1 remove most vaccine safety research from the CDC. While the bill did not pass, it was openly  
2 recognized that there were conflicts of interest.

3 233. There was bipartisan scrutiny of the CDC. On February 22, 2006, a letter to Dr  
4 David Schwartz, Director of the National Institute of Environmental Health Sciences, signed  
5 by U.S. Senators Joe Lieberman (D-Conn) and Debbie Stabenow (D-Mich), and members of  
6 the House Representatives including, Dr Dave Weldon, (R-Fla) Chris Smith, (R-NJ), Carolyn  
7 Maloney, (D-NY), Dan Burton, (R-Ind), Joseph Crowley, (D-NY), and Maurice Hinchey, (D-  
8 NY) stated, “If the federal government is going to have a study (regarding the flu vaccine)  
9 whose results will be broadly accepted, such a study cannot be led by the CDC.” Evelyn  
10 Pringle, *Lawmakers Sever Ties Between CDC and Big Pharma*, LAWYERS AND SETTLEMENTS  
11 (Aug. 21, 2006) [https://www.lawyersandsettlements.com/legal-news/drugs-  
12 medical/CDC\\_Big\\_Pharma-00285.html](https://www.lawyersandsettlements.com/legal-news/drugs-medical/CDC_Big_Pharma-00285.html). At the time, Dr Weldon stated, “There's an enormous  
13 inherent conflict of interest within the CDC and if we fail to move vaccine safety to a separate  
14 independent office, safety issues will remain a low priority and public confidence in vaccines  
15 will continue to erode.”

16 234. In recent years, The Atlantic Monthly among others has published stories critical  
17 of the CDC’s “internal scandal and funding issues.” *See, e.g.,* Vann. R. Newkirk II, *Is the CDC*  
18 *Losing Control?*, THE ATLANTIC (Feb. 3, 2018), [https://www.theatlantic.com/politics/archive/  
19 2018/02/cdc-scandal-preparedness-budget/552200/](https://www.theatlantic.com/politics/archive/2018/02/cdc-scandal-preparedness-budget/552200/). And, during the current COVID-19  
20 pandemic, journalists and public officials alike have increasingly questioned whether the CDC  
21 is a truly reliable or up-to-date source of public health information. *See, e.g.,* Alexis C.  
22 Madrigal & Robinson Meyer, *How Could the CDC Make That Mistake?*, THE ATLANTIC (May  
23 21, 2020), [https://www.theatlantic.com/health/archive/2020/05/cdc-and-states-are-  
24 misreporting-covid-19-test-data-pennsylvania-georgia-texas/611935/](https://www.theatlantic.com/health/archive/2020/05/cdc-and-states-are-misreporting-covid-19-test-data-pennsylvania-georgia-texas/611935/). On May 9, 2020, Dr.  
25 Deborah Birx, the White House Coronavirus Response Coordinator, reportedly stated, “*There*  
26 *is nothing from the CDC that I can trust.*” Josh Dawsey, Ashley Parker, Philip Rucker and  
27 Yasmeen Abutaleb, *As deaths mount, Trump tries to convince Americans it's safe to inch back*  
28 *to normal*, WASHINGTON POST (May 9, 2020),

1 [https://www.washingtonpost.com/politics/as-deaths-mount-trump-tries-to-convince-americans-](https://www.washingtonpost.com/politics/as-deaths-mount-trump-tries-to-convince-americans-its-safe-to-inch-back-to-normal/2020/05/09/bf024fe6-9149-11ea-a9c0-73b93422d691_story.html)  
 2 [its-safe-to-inch-back-to-normal/2020/05/09/bf024fe6-9149-11ea-a9c0-](https://www.washingtonpost.com/politics/as-deaths-mount-trump-tries-to-convince-americans-its-safe-to-inch-back-to-normal/2020/05/09/bf024fe6-9149-11ea-a9c0-73b93422d691_story.html)  
 3 [73b93422d691\\_story.html](https://www.washingtonpost.com/politics/as-deaths-mount-trump-tries-to-convince-americans-its-safe-to-inch-back-to-normal/2020/05/09/bf024fe6-9149-11ea-a9c0-73b93422d691_story.html) (emphasis supplied). Similarly, on June 3, 2020, Dr. Ashish Jha, the  
 4 director of the Harvard Global Health Institute, stated, “*The CDC is no longer the reliable go-*  
 5 *to place.*” Eric Lipton, et al., *The CDC waited 'its entire existence for this moment.' What went*  
 6 *wrong?*, NEW YORK TIMES (Jun. 2, 2020), [https://www.sfgate.com/news/article/The-CDC-](https://www.sfgate.com/news/article/The-CDC-Waited-Its-Entire-Existence-for-This-15312642.php)  
 7 [Waited-Its-Entire-Existence-for-This-15312642.php](https://www.sfgate.com/news/article/The-CDC-Waited-Its-Entire-Existence-for-This-15312642.php). CHD and RFK, Jr. have echoed many of  
 8 their concerns, yet CHD has been singled out for Facebook’s misleading “fact-checks,” and its  
 9 falsely disparaging warning label which trumpets the CDC “party line.”

10 **E. Material Questions of 5G Network Safety.**

11 235. According to the FCC, “[w]ithin the next few years, 5G networks . . . will make  
 12 possible once-unimaginable advances, such as self-driving cars and growth of the ‘Internet of  
 13 Things,’” i.e., the rapidly expanding collection of devices that collect, transmit and share data  
 14 via the internet. 5G networks “will increasingly need to rely on network densification, [which  
 15 entails] the deployment of far more numerous, smaller, lower-powered base stations or nodes  
 16 that are much more densely spaced.” *United Keetoowah Band of Cherokee Indians in Okla. v.*  
 17 *FCC*, 933 F.3d 728, 739 (D.C. Cir. 2019).

18 236. Cellular wireless services, including cellular phones and other forms of wireless  
 19 data transmission, use pulsed and modulated radio frequency signals to transmit the data  
 20 wirelessly. Wireless service in the United States has mostly depended on large “macro cell”  
 21 towers to transmit cell signal. However, to provide sufficient bandwidth to support wirelessly  
 22 interconnecting tens of billions more devices (*see, e.g.*, Sundeep Rangan, Theodore S.  
 23 Rappaport & Elza Erkip, *Millimeter-Wave Cellular Wireless Networks: Potentials and*  
 24 *Challenges*, PROCEEDINGS OF THE IEEE | Vol. 102, No. 3, March 2014,  
 25 <https://ecfsapi.fcc.gov/file/60001013329.pdf>), companies offering the next generation of  
 26 wireless service — known as 5G — are in the process of adding hundreds of thousands of  
 27 densely-spaced, wireless facilities, or “small cells.” *United Keetoowah Band of Cherokee*  
 28 *Indians in Okla. v. FCC*, 933 F.3d at 732. These “small cell” antennas are largely being

1 deployed in the public rights-of-way, on utility poles and lamp posts sometimes only a few feet  
2 from homes and children’s bedrooms. Although small cells may use less power than big cell  
3 towers, because of their proximity, the radiation exposure may be exponentially greater.

4 237. The evolution of cellular phone technology is represented by “Generations”  
5 (“G”), from 1G to 4G. 5G is different. It is not only cellular phone networks, but it describes a  
6 broader wireless infrastructure that will support the” Internet of Things,” driverless cars,  
7 “smart cities,” and other technologies that may not yet be in existence. *See, e.g., Remarks of*  
8 *Chairman Wheeler on The Future of Wireless*, FEDERAL COMMUNICATIONS COMMISSION (Jun.  
9 20, 2016), <https://www.fcc.gov/document/remarks-chairman-wheeler-future-wireless>. It is also  
10 used to provide internet services and thereby can displace existing wired internet services such  
11 as cable-internet.

12 238. 5G cellular networks operate in the same group of RF frequencies used for  
13 current wireless technologies. For example, currently, it is using low band frequencies around  
14 600 MHz and mid band frequencies between 2.5-4.2 GHz. However, the increased bandwidth  
15 and speed for 5G is achieved partly by using higher RF frequencies (currently, between 24-47  
16 GHz), known as “millimeter wave” frequencies. 5G, WIKIPEDIA,  
17 <https://en.wikipedia.org/wiki/5G> (last visited Aug. 14, 2020). Wireless technology uses RF  
18 signals to carry data (“carrier wave”). The data is encoded on the carrier RF wave by pulsing  
19 and modulating the RF signal. The scientific evidence shows that the pulsation and modulation  
20 are biologically active. *See e.g., Igor Belyaev et al., 2012 Supplement, Evidence for Disruption*  
21 *by Modulation*, BIOINITIATIVE.ORG (Sept. 2012), [https://bioinitiative.org/wp-](https://bioinitiative.org/wp-content/uploads/pdfs/sec15_2012_Evidence_Disruption_Modulation.pdf)  
22 [content/uploads/pdfs/sec15\\_2012\\_Evidence\\_Disruption\\_Modulation.pdf](https://bioinitiative.org/wp-content/uploads/pdfs/sec15_2012_Evidence_Disruption_Modulation.pdf). 5G is also using  
23 complex modulation schemes.

24 239. Well over a thousand studies illustrate the biological and potential risks of  
25 exposure to non-thermal levels of pulsed and modulated radiofrequency radiation used for  
26 wireless technology.

27 240. The BioInitiative Report is the most extensive review of the scientific evidence  
28 of the biological and adverse health effects of RFs and electromagnetic fields (EMFs). It was

1 originally published in 2007. In 2012 an updated version was published, and it has been  
2 continuously updated ever since, most recently in 2020. The report is authored by the  
3 BioInitiative Working Group, comprised of 29 independent world-leading scientists and public  
4 health experts on RFs and EMFs. The report aims to provide a “*Rationale for Biologically-*  
5 *based Public Exposure Standards for Electromagnetic Fields (Extremely Low Frequency and*  
6 *Radio Frequency.*” BIOINITIATIVE.ORG, <https://bioinitiative.org/>. The BioInitiative concludes  
7 that “bio-effects can occur... from just minutes of exposure... Many of these bioeffects can  
8 reasonably be presumed to result in adverse health effects if the exposures are prolonged or  
9 chronic.”

10 241. The BioInitiative’s recommended levels of exposure are based on “observed  
11 effects” found in humans in epidemiological studies. They are based on actual adverse effects  
12 observed in individuals living near cell towers and therefore highly relevant to the exposure  
13 from the “small cells” used for the 5G infrastructure. The recommended levels are well below  
14 the existing FCC guidelines. Furthermore, the BioInitiative recommends adopting guidelines  
15 that take into consideration the effects of pulsation and modulations.

16 242. Since 5G is using the same group of RF frequencies, as well as pulsed and  
17 modulated signals, the existing body of science regarding the biological and health effects of  
18 current RF-based technologies is relevant to 5G. Furthermore, there is a growing body of  
19 evidence regarding the biological and adverse effects of millimeter waves. Effects shown  
20 include arrhythmias, heart rate variability, bacterial effects, antibiotic resistance, immune  
21 system effects, altered gene expression and cataracts. *See, e.g.,* Cindy L. Russell, *5G wireless*  
22 *telecommunications expansion: Public health and environmental implications*, ENVIRON RES.  
23 2018 Aug;165:484-495. doi: 10.1016/j.envres.2018.01.016. Epub 2018 Apr 11. PMID:  
24 29655646, <https://pubmed.ncbi.nlm.nih.gov/29655646/>.

25 243. There are specific concerns regarding the exposure of children to RF based  
26 wireless technology and radiation. The BioInitiative report reviewed over 200 studies showing  
27 profound neurological effects showing clear evidence of adverse effects from RF/EMF  
28 including effects during the prenatal period and childhood. Studies show that prenatal exposure

1 can permanently affect brain neuro-development, memory and behavior and can lead to  
2 ADHD. RF/EMF exposure can also cause headaches, ringing in the ears, heart palpitations,  
3 sleep problems, cognitive and memory problems and nose bleeds. Belyaev I, Dean A, Eger H,  
4 et al., *EUROPAEM EMF Guideline 2016 for the prevention, diagnosis and treatment of EMF-*  
5 *related health problems and illnesses*, REV. ENVIRON HEALTH. 2016, 31(3), 363-397,  
6 <https://pubmed.ncbi.nlm.nih.gov/27454111/>. Over 200 studies also establish Oxidative Stress  
7 as a causal mechanism of harm. The evidence of profound harms associated with exposure to  
8 RFs suggests that wireless technology may also contribute to the exponential increase in  
9 sickness in children referenced *supra*.

10 244. There is also strong evidence that RF radiation can cause cancer and DNA  
11 damage. In November 2018, the results of a \$30 million study conducted by the U.S. National  
12 Toxicology Program (NTP) were published. The study found “clear evidence” that exposure to  
13 pulsed and modulated cell phone RF radiation caused cancer in rats. *High Exposure to Radio*  
14 *Frequency Radiation Associated with Cancer in Male Rats*, NATIONAL INSTITUTE OF  
15 ENVIRONMENTAL HEALTH SCIENCES (Nov. 1, 2018),  
16 <https://www.niehs.nih.gov/news/newsroom/releases/2018/november1/index.cfm>. In November  
17 2019, the NTP published further results showing DNA damage. The NTP’s DNA findings  
18 confirm the results of dozens of other DNA studies.

19 245. The Ramazzini Institute in Italy replicated the key finding of the NTP using  
20 much weaker exposure levels to cell phone radiation over the life of the rats. Thus, the  
21 Ramazzini Institute study, a €6 million study, extended the results of the NTP study to far  
22 lower levels of radiation exposure, comparable to levels of radiation from cell towers and  
23 therefore relevant to 5G networks. Falcioni L, Bua L, Tibaldi E, et al., *Report of final results*  
24 *regarding brain and heart tumors in Sprague-Dawley rats exposed from prenatal life until*  
25 *natural death to mobile phone radiofrequency field representative of a 1.8 GHz GSM base*  
26 *station environmental emission*, ENVIRON RES. 2018; 165:496-503,  
27 <https://pubmed.ncbi.nlm.nih.gov/29530389/>; see also Joel M. Moskowitz, *We Have No Reason*  
28 *to Believe 5G Is Safe*, SCIENTIFIC AMERICAN (Oct. 17, 2019),



1 <https://blogs.scientificamerican.com/observations/we-have-no-reason-to-believe-5g-is-safe/>.

2 246. In 2011, the International Agency for Research on Cancer (IARC) of the WHO  
3 classified RF radiation including radiation from cell towers as a “possible” (2B) carcinogen in  
4 humans. In its 2013 Monograph, IARC stated that while there is epidemiological evidence of  
5 increased cancer risk in humans, more animal studies are needed for a higher classification.  
6 *Non-ionizing Radiation, Part 2: Radiofrequency Electromagnetic Fields, IARC Monographs*  
7 *on the Evaluation of Carcinogenic Risks to Humans Volume 102*, IARC Publications,  
8 INTERNATIONAL AGENCY FOR RESEARCH ON CANCER, WORLD HEALTH ORGANIZATION,  
9 <https://publications.iarc.fr/126>. The results of the NTP and Ramazzini studies provide the  
10 “missing link.” Scientists, including a retired NTP/NIEHS scientist who designed the NTP  
11 study, are calling for the reclassification of RF as at least a “probable” (2A) carcinogen, and  
12 some claim the evidence is sufficient for a 1A “human carcinogen.” *See, e.g.,* Ronald L.  
13 Melnick, *Commentary on the utility of the National Toxicology Program study on cell phone*  
14 *radiofrequency radiation data for assessing human health risks despite unfounded criticisms*  
15 *aimed at minimizing the findings of adverse health effects*, ENVIRON RES. 2019 Jan;168:1-6.  
16 doi: 10.1016/j.envres.2018.09.010. Epub 2018 Sep 20. PMID: 30243215,  
17 <https://pubmed.ncbi.nlm.nih.gov/30243215/>.

18 247. In 2012, Italy’s Supreme Court found that cell phones cause acoustic neuroma-  
19 type brain tumors. Acoustic Neuroma is a Schwannoma tumor, the same type of tumor found  
20 in the NTP study. Since then, courts in three additional cases reached the same conclusion.

21 248. In December 2017, the California Department of Public Health (“CDPH”)  
22 published guidelines in response to the available peer-reviewed scientific evidence that RFR  
23 may cause DNA damage, reproduction harms, cancer and learning disabilities in humans,  
24 among other effects. CDPH Director and State Public Health Officer Dr. Karen Smith stated  
25 that “although the science is still evolving, there are concerns among some public health  
26 professionals and members of the public regarding long-term, high use exposure to the energy  
27 emitted by cell phones.” *CDPH Issues Guidelines on How to Reduce Exposure to Radio*  
28 *Frequency Energy from Cell Phones*, Office of Public Affairs, CALIF. DEPT. OF PUBLIC

1 HEALTH (Dec. 13, 2017), <https://www.cdph.ca.gov/Programs/OPA/Pages/NR17-086.aspx>. *See*  
2 *also* Cal. Gov. Code § 659641.1, subd. (f) (exempting wireless facilities on fire department  
3 facilities from mandatory approval after some firefighters developed severe neurological  
4 injuries from cell towers located on their stations).

5 249. In 2014, the California Medical Association passed a resolution calling upon the  
6 FCC to update its health guidelines as the scientific evidence showing profound adverse effects  
7 from wireless technologies. *California Medical Association House of Delegates Resolution,*  
8 *Wireless Standards Reevaluation, 2014 Resolution 107*, CALIFORNIA MEDICAL ASSOCIATION  
9 (adopted Dec. 7, 2014), [https://ecfsapi.fcc.gov/file/1092989731923/30-Attachment%2030-](https://ecfsapi.fcc.gov/file/1092989731923/30-Attachment%2030-%20California%20Medical%20Association%20Resolution.pdf)  
10 [%20California%20Medical%20Association%20Resolution.pdf](https://ecfsapi.fcc.gov/file/1092989731923/30-Attachment%2030-%20California%20Medical%20Association%20Resolution.pdf).

11 250. In 2015, over 200 scientists from 42 countries, who collectively published over  
12 2,000 papers, reviews, commentaries, and letters in professional journals on different types of  
13 non-ionizing EMF, sent the “International EMF Scientist Appeal” letter to the United Nations  
14 and WHO, stating: “Based upon peer reviewed, published research, we have serious concerns  
15 regarding the ubiquitous and increasing exposure to ... wireless devices.” *Scientists call for*  
16 *Protection from Non-ionizing Electromagnetic Field Exposure*, EMF SCIENTIST,  
17 <https://www.emfscientist.org/index.php/emf-scientist-appeal> (last visited Aug. 14, 2020).

18 251. The 5G Appeal was prepared in 2017 by scientists and doctors who called on the  
19 European Union (“EU”) to impose a moratorium on the roll out of 5G due to serious potential  
20 health effects from 5G technology. They expressed their “serious concerns” regarding the  
21 ubiquitous and increasing exposure to EMF generated by electric and wireless devices already  
22 before the additional 5G roll-out. As of August 27, 2020, 403 scientists and medical doctors  
23 have signed the 5G Appeal. *The Signatories*, 5G APPEAL, [http://www.5gappeal.eu/signatories-](http://www.5gappeal.eu/signatories-to-scientists-5g-appeal/)  
24 [to-scientists-5g-appeal/](http://www.5gappeal.eu/signatories-to-scientists-5g-appeal/). The 5G Appeal urges the EU to “take all reasonable measures to halt  
25 the 5G RF-EMF [“radio frequency-electromagnetic fields”] expansion until independent  
26 scientists can assure that 5G and the total radiation levels caused by RF-EMF (5G together  
27 with 2G, 3G, 4G, and WiFi) will not be harmful for EU citizens, especially infants, children  
28 and pregnant women, as well as the environment.”

1           252. The 5G Appeal states that “RF-EMF has been proven to be harmful for humans  
2 and the environment.” Quoting the *EMF Scientist*, it asserts “numerous recent scientific  
3 publications have shown that EMF affects living organisms at levels well below most  
4 international and national guidelines”. Effects include increased cancer risk; cellular stress,  
5 increase in harmful free radicals, genetic damage, structural and functional changes of the  
6 reproductive system, learning and memory deficits, neurological disorders, and negative  
7 impacts on the general well-being in humans. Damage goes well beyond the human race, as  
8 there is growing evidence of harmful effects to both plant and animal life.” *International*  
9 *Appeal: Scientists call for Protection from Non-ionizing Electromagnetic Field Exposure*,  
10 EMFSCIENTIST.ORG, <https://emfscientist.org/index.php/emf-scientist-appeal>.

11           253. The 5G Appeal concludes that an epidemic of sickness from this radiation  
12 already exists and “*inaction is a cost to society and is not an option anymore.*” *About, 5G*  
13 *APPEAL*, <http://www.5gappeal.eu/about/> (last visited Aug. 14, 2020) (emphasis added).

#### 14           **F. Facebook’s Adverse Motives.**

##### 15                   **1. Zuckerberg’s Personal Involvement and Biases.**

16           254. It is highly probable that Zuckerberg has participated in, and personally directed  
17 “vaccine misinformation” policy decisions at Facebook which directly harmed CHD. It is also  
18 highly probable that Zuckerberg is directly involved with, and directing the philosophy of  
19 Facebook’s public health agency partnership strategy. The decision to demonetize advertising  
20 and donations for organizations like CHD related to “vaccine misinformation” is a decision  
21 that Zuckerberg would likely have known about, and approved, given his historical prominence  
22 in decisions related to content management generally, and vaccine “misinformation”  
23 specifically. As CEO of Facebook, Zuckerberg would have known about Facebook’s  
24 Preventive Health App, and most likely set the direction of its requirements in conjunction  
25 with public health agencies. Zuckerberg’s commentaries on public health/Facebook  
26 collaborations, and his direct involvement in related efforts such as CZI’s for-profit vaccine  
27 development, strongly suggest that he has exercised direct personal supervision and control of  
28 Facebook’s corporate actions at issue here.

1           255. There is substantial evidence that Zuckerberg, acting in his position as Facebook  
2 CEO and controlling shareholder, is personally involved with and directs its editorial decisions  
3 and policies with respect to what sorts of posts are and are not censored. It is more than likely  
4 Zuckerberg was substantially involved in the setting of vaccine “misinformation” policies and  
5 algorithms which Facebook deployed against CHD.

6           256. CHD has been effective in spreading information that is threatening to  
7 Zuckerberg’s financial interests in pharmaceutical ad revenue, 5G network deployment, and  
8 vaccine development. Independent media sources have verified that CHD was, prior to  
9 censorship, one of the top sources of purportedly “anti-vaccine” ads on Facebook.

10           257. CHD started posting articles against 5G, the new telecom technology, in October,  
11 2019. Currently, CHD posts anti-5G content once every seven days. These posts include  
12 science-based claims that 5G may cause significant damage to human DNA, may cause cancer,  
13 and is being installed in order to carry out mass surveillance. CHD and RFK, Jr.’s 5G-related  
14 posts have garnered more than 400,000 likes or other interactions.

15           258. Similarly, RFK, Jr. and CHD only posted about Bill Gates twice prior to  
16 December, 2019, but since then have mentioned Mr. Gates about once every five days. CHD’s  
17 highest-ever performing post was about Mr. Gates, and was flagged by Poynter/PolitiFact as  
18 false: It claimed that the Gates Foundation paralyzed 496,000 children in India when it tested a  
19 polio vaccine. He has also accused Mr. Gates of profiting from the pandemic, of wanting to  
20 “genetically modify” humanity, and of controlling not only the WHO, but also “the flow of  
21 global information.” So far, RFK, Jr., and CHD’s posts about Mr. Gates have achieved more  
22 than one million likes, shares and clicks. Alexi Mostrous, *How a Kennedy became a*  
23 *‘superspreader’ of hoaxes on COVID-19, vaccines, 5G and more*, THE GLOBE AND MAIL  
24 (Sept. 16, 2020), [https://www.theglobeandmail.com/world/article-robert-f-kennedy-jr-medical-](https://www.theglobeandmail.com/world/article-robert-f-kennedy-jr-medical-misinformation/)  
25 [misinformation/](https://www.theglobeandmail.com/world/article-robert-f-kennedy-jr-medical-misinformation/). Given Zuckerberg’s close involvement and CHD’s prominence in these  
26 issues, it is quite likely that Zuckerberg was personally aware of CHD and RFK, Jr.’s work.

27           259. Zuckerberg’s goal is to reduce anti-vaccine “sentiment” in the populace  
28 generally, in which Facebook’s vaccine “misinformation” campaign plays a significant part.

1 He is less concerned with finding scientific truth than the pursuit of an ideology of universal  
2 vaccination. Given Zuckerberg's ideology and his position as CEO, Facebook policy cannot  
3 but mold itself to his whims. Thus, the modus operandi which Zuckerberg set in motion was to  
4 identify *any* information critical of vaccines in any way, and then attempt to see if "fact-  
5 checking" could be done on it. Facebook said that a variety of human "fact-checkers" and  
6 machine learning was used to do so.

7 260. Zuckerberg has publicly stated his ideological belief in vaccinations numerous  
8 times. He has said, for example, that "[v]accination is an important and timely topic. The  
9 science is completely clear: vaccinations work and are important for the health of everyone in  
10 our community." Phil Plait, *Mark Zuckerberg: Pro-Vaxxer*, SLATE (Jan. 12, 2016),  
11 <https://slate.com/technology/2016/01/mark-zuckerberg-publicly-supports-vaccination.html>.

12 261. As alleged *supra*, Zuckerberg has donated at least \$25 million to the CDC  
13 Foundation.

14 262. At an October 22, 2019 U.S. House Committee on Financial Services hearing,  
15 Congressman Bill Posey (R-FL) had the following exchange with Zuckerberg, which revealed  
16 a strikingly unscientific view of the scientific method with respect to vaccines:

17 Representative Posey: I support vaccinations of children and adults,  
18 but I also support open and frank communication about the risks of  
19 vaccination. You testified that you believe in giving people a voice.  
20 Is Facebook able to assure us it will support users' fair and open  
21 discussions and communications about the risks as well as the  
22 benefits of vaccinations?

23 Mr. Zuckerberg: We do care deeply about giving people a voice  
24 and freedom of expression. At the same time, we hear consistently  
25 from our community that people want us to stop the spread of  
26 misinformation. So what we do is try to focus on misinformation  
27 that has the potential to lead to imminent or physical harm, and that  
28 can include especially misleading health advice.

Representative Posey: Are you 100% confident that vaccines pose  
no injury to any person on this planet?

1 Mr. Zuckerberg: *I don't think it would be possible for anyone to be*  
 2 *100 percent confident but my understanding of the scientific*  
 3 *consensus is that it's important that people get their vaccines.*

4 Representative Posey: Shouldn't somebody have the opportunity to  
 5 express an opinion different from yours?

6 Mr. Zuckerberg: If someone wants to post anti-vaccination content  
 7 or they want to join a group where people are discussing that, we  
 8 don't stop them from doing that. But [...] we don't go out of our  
 9 way to make sure our group recommendation systems show people  
 10 or encourage people to join those groups. We discourage that.

11 *Facebook CEO Testimony Before House Financial Services Committee* [Video], C-SPAN (Oct.  
 12 23, 2019), [https://www.c-span.org/video/?465293-1/facebook-ceo-testimony-house-financial-](https://www.c-span.org/video/?465293-1/facebook-ceo-testimony-house-financial-services-committee)  
 13 [services-committee](https://www.c-span.org/video/?465293-1/facebook-ceo-testimony-house-financial-services-committee) (emphasis added).

14 263. Yet, by contrast, when it comes to “political speech,” Zuckerberg claims to be a  
 15 First Amendment absolutist. In a May 27, 2020 interview with Fox TV News anchor Dana  
 16 Perino, Zuckerberg rebuked Twitter for its decision to tag two of President Donald Trump’s  
 17 tweets about mail-in voting with fact-check links. Zuckerberg said, *“I just believe strongly that*  
 18 *Facebook shouldn't be the arbiter of truth of everything that people say online. Private*  
 19 *companies probably shouldn't be, especially these platform companies, shouldn't be in the*  
 20 *position of doing that.”* Rachel Sandler, *Zuckerberg Criticizes Twitter For Fact-Checking*  
 21 *Trump Tweets*, FORBES (May 27, 2020), [https://www.forbes.com/sites/rachelsandler/](https://www.forbes.com/sites/rachelsandler/2020/05/27/zuckerberg-criticizes-twitter-for-fact-checking-trump-tweets/#2aec97616f7a)  
 22 [2020/05/27/zuckerberg-criticizes-twitter-for-fact-checking-trump-tweets/#2aec97616f7a](https://www.forbes.com/sites/rachelsandler/2020/05/27/zuckerberg-criticizes-twitter-for-fact-checking-trump-tweets/#2aec97616f7a)  
 23 (emphasis added). This is a very significant admission by Facebook’s chairman even as he and  
 24 his company purport to “arbitrate the truth” of open scientific controversies when doing so  
 25 advances their business interests.

26 264. On June 2, 2020, Zuckerberg held a “town hall” with Facebook employees who  
 27 believe the company should take action on a controversial post by President Trump that “when  
 28 the looting begins, the shooting begins[,]” which many people interpreted as a call for violence  
 in nationwide protests over the death of George Floyd. Twitter put a warning label over the  
 tweet, flagging it as violent content that violated that company's policies, but the tweet was

1 being left up because it was newsworthy. Facebook declined to take any action on a similar  
2 post on its site.

3 265. At the “town hall,” Zuckerberg defended his decision that the post did not  
4 constitute a policy violation, as he “personally walked employees through different  
5 interpretations of Trump's language.” Zuckerberg’s personal involvement in the decision is  
6 “characteristic of the way he has handled controversial policy choices over the last several  
7 years[.] [. . .] His leadership style contrasts with Twitter CEO Jack Dorsey, who tends to  
8 delegate policy decisions to his deputies. Zuckerberg also made the decision not to take down a  
9 video of House Speaker Nancy Pelosi that was manipulated to make her appear drunk. He  
10 made a personal call not to fact check political advertising, despite frustration from the public  
11 and from employees, according to a person familiar with the decision-making.” Elizabeth  
12 Dwoskin, *Zuckerberg defends decisions on Trump as Facebook employee unrest grows*,  
13 WASHINGTON POST (Jun. 2, 2020), [https://www.sfgate.com/news/article/Zuckerberg-defends-](https://www.sfgate.com/news/article/Zuckerberg-defends-decisions-on-Trump-as-Facebook-15311764.php)  
14 [decisions-on-Trump-as-Facebook-15311764.php](https://www.sfgate.com/news/article/Zuckerberg-defends-decisions-on-Trump-as-Facebook-15311764.php). Zuckerberg justified his decision not to act  
15 against the President’s posts, citing his responsibility as the “leader of an institution committed  
16 to free expression.” Donie O'Sullivan & Brian Fung, *Mark Zuckerberg tries to explain his*  
17 *inaction on Trump posts to outraged staff*, CNN BUSINESS (Jun. 2, 2020),  
18 <https://www.cnn.com/2020/06/02/tech/facebook-all-hands-trump/index.html>. Tellingly,  
19 Zuckerberg’s professed commitment to “free expression” does not extend to truthful  
20 communication about vaccine safety or 5G network health risks.

21 266. On an October 28, 2020, U.S. Senate Commerce Committee Hearing,  
22 Zuckerberg testified to his belief that free speech is an “equity” that should be weighed against  
23 other considerations, not a foundational freedom. Sen. Marsha Blackburn (R-TN) said in  
24 introducing her question that Facebook is “picking winners and losers,” and that the company  
25 is “inserting itself” into issues of free speech. “Is the First Amendment a given right, or is that  
26 a competing equity?” she asked, referencing Zuckerberg’s earlier commentary.

27 267. “I believe strongly in free expression,” Zuckerberg replied. “But I do think that,  
28 like all equities, it is balanced against other equities, like safety and privacy. Even people who

1 believe in the strongest possible interpretation of the First Amendment still believe there  
2 should be some limits on speech when it could cause an imminent risk of physical harm.”  
3 Rudy Takala, *Mark Zuckerberg Says Facebook ‘Balances’ First Amendment Against ‘Other*  
4 *Equities’: ‘There Should be Some Limits on Speech,’* MEDIAITE (Oct. 28, 2020),  
5 [https://www.mediaite.com/news/mark-zuckerberg-says-facebook-balances-first-amendment-](https://www.mediaite.com/news/mark-zuckerberg-says-facebook-balances-first-amendment-against-other-equities-there-should-be-some-limits-on-speech/)  
6 [against-other-equities-there-should-be-some-limits-on-speech/](https://www.mediaite.com/news/mark-zuckerberg-says-facebook-balances-first-amendment-against-other-equities-there-should-be-some-limits-on-speech/).

## 7                   **2. Vaccine-Maker Ad Revenue.**

8           268. Facebook earns revenue primarily through the sale of targeted advertising that  
9 appears on members’ Facebook pages. *See, e.g., Fraley v. Facebook*, 830 F. Supp. 2d 785, 791  
10 (N.D. Cal. 2011). Facebook generates 98 percent of its revenue through ads. It netted \$17.4  
11 billion from advertising in its most recent quarter. Tiffany Hsu & Cecilia Kang, “*Morally*  
12 *Impossible*”: *Some Advertisers Take a Timeout From Facebook*, NEW YORK TIMES (Jun. 9,  
13 2020), [https://www.nytimes.com/2020/06/09/business/media/facebook-advertisers-trump-](https://www.nytimes.com/2020/06/09/business/media/facebook-advertisers-trump-zuckerberg.html?searchResultPosition=2)  
14 [zuckerberg.html?searchResultPosition=2](https://www.nytimes.com/2020/06/09/business/media/facebook-advertisers-trump-zuckerberg.html?searchResultPosition=2).

15           269. Beginning as early as 2016, Facebook initiated programs to capture an ever  
16 greater share of the pharmaceutical direct-to-consumer advertising market. That year,  
17 Facebook unveiled a new feature enabling pharmaceutical companies to comply with  
18 regulatory restrictions on advertising by showing “important safety information,” or ISI, in a  
19 scrolling section featured below the ad. Beth Snyder Bulik, *Bayer blazes new trails for pharma*  
20 *with Betaseron Facebook ad*, FIERCEPHARMA (Oct. 30, 2016),  
21 [https://www.fiercepharma.com/marketing/bayer-s-first-facebook-ad-campaign-features-first-](https://www.fiercepharma.com/marketing/bayer-s-first-facebook-ad-campaign-features-first-scrolling-isi-a-pharma-ad-facebook-ad)  
22 [scrolling-isi-a-pharma-ad-facebook-ad](https://www.fiercepharma.com/marketing/bayer-s-first-facebook-ad-campaign-features-first-scrolling-isi-a-pharma-ad-facebook-ad). That feature has paid off hugely for Facebook.

23           270. In a Washington Post article entitled *Facebook has a prescription: More*  
24 *pharmaceutical ads* dated March 3, 2020, journalist Natasha Tiku wrote:

25                   After years of avoiding social media, drug companies are growing  
26                   bolder about advertising on Facebook and other social networks,  
27                   according to interviews with advertising executives, marketers,  
28                   health-care privacy researchers and patient advocates. That is  
                    exposing loopholes around the way data can be used to show  
                    consumers relevant ads about their personal health, even as both



1 social networks and pharmaceutical manufacturers disavow  
2 targeting ads to people based on their medical conditions.

3 Ads promoting prescription drugs are popping up on Facebook for  
4 depression, HIV and cancer. Spending on Facebook mobile ads  
5 alone by pharmaceutical and health-care brands reached nearly a  
6 billion dollars in 2019, nearly tripling over two years, according to  
7 Pathmatics, an advertising analytics company. Facebook offers  
8 tools to help drug companies stay compliant with rules about  
9 disclosing safety information or reporting side effects.

10 But seeing an ad for a drug designed to treat a person’s particular  
11 health condition in the relatively intimate setting of a social media  
12 feed — amid pictures of friends and links to news articles — can  
13 feel more intrusive than elsewhere online. The same opaque  
14 Facebook systems that help place an ad for a political campaign or  
15 a new shoe in a user’s feed also can be used by pharmaceutical  
16 companies, allowing them to target consumers who match certain  
17 characteristics or had visited a particular website in the past.

18 [...]

19 The growing concern about targeted pharmaceutical ads is  
20 unfolding against an expansion at Facebook focusing more  
21 generally on health — including encouraging more groups, where  
22 community members gather to discuss certain topics, like the one  
23 Downing moderates. It’s also been actively soliciting more health-  
24 care-focused ads.

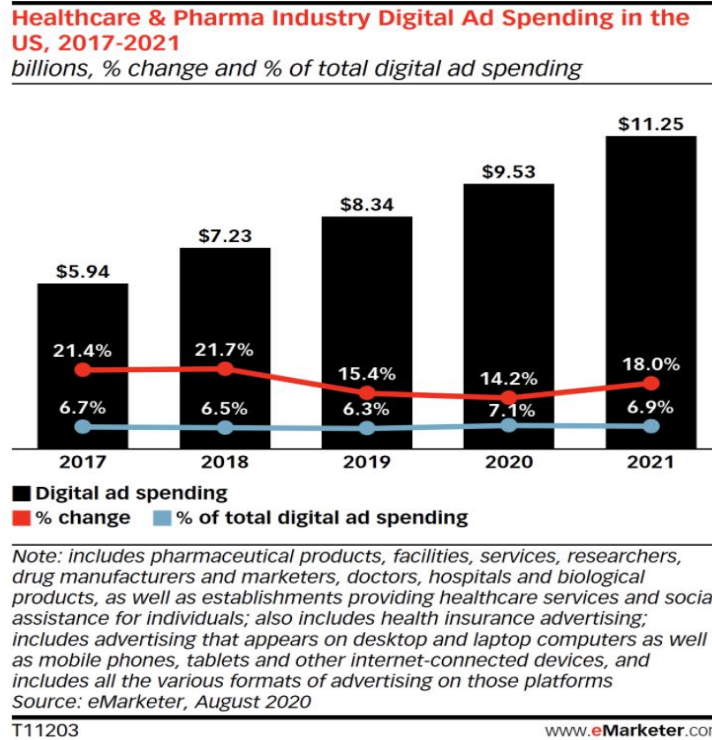
25 [ . . . ]

26 Pfizer, Allergan, Merck and GlaxoSmithKline were among the top  
27 10 spenders on Facebook mobile ads in 2019, along with fast-  
28 growing health start-ups such as SmileDirectClub and Roman,  
according to Pathmatics.

29 Natasha Tiku, *Facebook has a prescription: More pharmaceutical ads*, WASHINGTON POST  
30 (Mar. 3, 2020), <https://www.washingtonpost.com/technology/2020/03/03/facebook-pharma-ads/>.

31 271. “While healthcare and pharma digital ad spending has grown faster in previous  
32 years, its 2020 growth is substantial, as the total US digital ad market is expected to grow by

only 1.7%.” Blake Droesch, US Healthcare and Pharma Is Among the Fastest-Growing Digital Ad Spenders, eMarketer (Oct. 9, 2020), <https://www.emarketer.com/content/us-healthcare-pharma-digital-ad-spending-outlook>.



272.

	IMS Health Social Media Engagement Index	Score
1	Johnson & Johnson	70
2	GlaxoSmithKline	25
3	Novo Nordisk	23
4	Pfizer	20
5	Novartis	18
6	Boehringer Ingelheim	18
7	Bayer	16
8	Merck & Co	13
9	AstraZeneca	10
10	UCB	9

273.

274. As alleged *supra*, Merck & Co., Pfizer, and GlaxoSmithKline are three of the four pharmaceutical manufacturers (Sanofi is the other) which control the United States

1 vaccine market. Facebook and Zuckerberg personally have a substantial adverse motive to  
2 protect the brands and goodwill of their largest pharmaceutical advertising buyers from  
3 criticism, however legitimate and well-founded, at the hands of CHD.

### 4                   **3.     Vaccine Development.**

5           275.    In December 2015, Zuckerberg and his wife Dr. Priscilla Chan co-founded the  
6 Chan Zuckerberg Initiative, LLC, (“CZI”), a for-profit corporation, of which he is chairman,  
7 chief executive officer, and co-managing member, with a pledge to “donate” (i.e., transfer) 99  
8 percent of their Facebook shares, then valued at \$45 billion. CZI and CZ Biohub, its wholly-  
9 owned subsidiary, have set as their “moon shot mission” the goal “to cure all disease on the  
10 planet within the Facebook executive’s childrens’ lifetimes.” The CZI Infectious Disease  
11 Initiative seeks to develop new drugs, diagnostic tests and vaccines that could aid the fight  
12 against diseases like HIV, Ebola and newly emerging threats like Zika. *CZI Announces the*  
13 *Chan Zuckerberg Biohub*, CHAN ZUCKERBERG INITIATIVE (Sept. 23, 2016),  
14 <https://chanzuckerberg.com/newsroom/czi-announces-the-chan-zuckerberg-biohub/>. CZI  
15 purports that “[o]ur scientists and engineers will apply the most advanced technologies  
16 available today and work to invent new tools as well to support the global fight against  
17 infectious diseases. The work will be clustered around four key areas: diagnostic tests, new  
18 drugs, vaccines and rapid response.”

19           276.    With respect to vaccines specifically, CZI’s online statement purports that:

20                   We’re seeking new approaches to overcoming challenges that have  
21                   stymied vaccine development for diseases like HIV/AIDS and  
22                   tuberculosis. To push forward on vaccine development, we’ll use  
23                   recent advances emerging from structural biology, machine  
24                   learning and computer-assisted protein design to establish a new  
25                   approach for creating vaccine candidates. And we’ll adopt  
26                   “machine learning” strategies to develop powerful computer  
27                   programs that can sort through large volumes of scientific data for  
28                   insights.

                  We believe machine learning technology, now used for things like  
driverless car and threat assessments, could be particularly  
effective for probing clinical trial data for insights existing  
analytical methods fail to find.

1 *Infectious Disease Initiative*, CHAN ZUCKERBERG BIOHUB, [https://www.czbiohub.org/projects/](https://www.czbiohub.org/projects/infectious-disease/)  
2 *infectious-disease/* (last visited Aug. 15, 2020).

3 277. In 2018, Zuckerberg purported to transfer 29 million of his Facebook shares,  
4 worth \$5.3 billion, to CZI. Overall, the CZ Biohub (CZB) is expected to receive a transfer of  
5 \$600 million over the course of ten years from Zuckerberg. The CZB provides \$50 million in  
6 funding for researchers based in the San Francisco area at UC Berkeley, Stanford University,  
7 and the University of California at San Francisco (UCSF). 750 researchers applied for the  
8 grants, and 47 were awarded cash grants of up to \$1.5 million, presumably in exchange for  
9 patent ownership transfers to CZB, and thereby to Zuckerberg as controlling co-owner and co-  
10 manager. *The Chan Zuckerberg Biohub: Seeking to Cure All Diseases*, BIOLEGEND BLOG,  
11 [https://www.biolegend.com/ja-jp/blog/the-chan-zuckerberg-biohub-seeking-to-cure-all-](https://www.biolegend.com/ja-jp/blog/the-chan-zuckerberg-biohub-seeking-to-cure-all-diseases)  
12 *diseases* (last visited Aug. 15, 2020).

#### 13 4. 5G Networks.

14 278. Over the past five years, Facebook has made significant investments in  
15 developing 5G home systems, 60 GHz antenna infrastructure for cities (“Project Telegraph”),  
16 and 5G for rural areas (“Project Aries”), as well as satellites. Facebook purchased Inovi, a 5G  
17 company, which it used to build a trial 5G network in San Jose, California and on Facebook’s  
18 “campus” to test the viability and cost-effectiveness of 5G for mass deployment. Facebook also  
19 spearheaded the Telecom Infrastructure Project (“TIP”). By building a network of companies  
20 focused on 5G, Facebook seeks to harmonize the technical and standardization challenges of  
21 rolling out the 5G network. Bijan Khosravi, *Facebook's New Focus On 5G and Golden*  
22 *Opportunity for Entrepreneurs*, FORBES (Apr. 30, 2018), [https://www.forbes.com/sites/](https://www.forbes.com/sites/bijankhosravi/2018/04/30/todays-black-clouds-over-facebook-will-part-look-at-their-golden-ideas-in-5g/#37c15fdd313b)  
23 *bijankhosravi/2018/04/30/todays-black-clouds-over-facebook-will-part-look-at-their-golden-*  
24 *ideas-in-5g/#37c15fdd313b*.

25 279. Facebook also collaborates with Common Networks, a United States company,  
26 to deliver ultra high-speed gigabit internet service to residential customers. Common Networks  
27 is using Facebook’s Terragraph technology, which employs high-frequency radio waves to  
28 speed up networks in locations with dense populations, as a replacement for standard home

1 broadband. Katie Collins, *Facebook and partners collaborate to bring 5G wireless internet to*  
2 *California homes*, CNET (Feb. 25, 2019), [https://www.cnet.com/news/facebook-brings-faster-](https://www.cnet.com/news/facebook-brings-faster-than-fiber-5g-wireless-connectivity-to-california/)  
3 [than-fiber-5g-wireless-connectivity-to-california/](https://www.cnet.com/news/facebook-brings-faster-than-fiber-5g-wireless-connectivity-to-california/).

4 280. Facebook's subsidiary PointView Tech has designed an internet satellite (called  
5 “Athena”) to provide broadband access to unserved and underserved areas throughout the  
6 world. Facebook’s designers intend that Athena will deliver data 10-times faster than SpaceX’s  
7 Starlink satellites. Mark Harris, *Facebook May Have Secret Plans to Build a Satellite-Based*  
8 *Internet*, IEEE (May 2, 2018), [https://spectrum.ieee.org/tech-talk/aerospace/satellites/facebook-](https://spectrum.ieee.org/tech-talk/aerospace/satellites/facebook-may-have-secret-plans-to-launch-a-internet-satellite)  
9 [may-have-secret-plans-to-launch-a-internet-satellite](https://spectrum.ieee.org/tech-talk/aerospace/satellites/facebook-may-have-secret-plans-to-launch-a-internet-satellite). To support this expansion, Facebook  
10 among other companies and governments have plans to launch collectively nearly 50,000  
11 satellites to provide 5G and Wi-Fi services everywhere on Earth. *See, e.g.,* Henry, C.,  
12 *Facebook willing to invest in satellite user equipment*, SPACE NEWS (March 8, 2017),  
13 <https://spacenews.com/facebook-willing-to-invest-in-satellite-user-equipment/>.

14 281. Facebook recently announced its plan to construct an undersea cable circling the  
15 African continent (“Project Simba”), to complement its transatlantic cable “Marea.” Facebook  
16 intends that this global wifi infrastructure will support its “Free Basics” project, which  
17 provides cheap internet services to the developing world. It currently operates in 63 countries.

18 282. The greater bandwidth and lower latency (delay) of 5G will allow Facebook to  
19 display more advertising content to its users at faster browsing speeds, generating ever more ad  
20 revenue for Facebook. It also stands to benefit financially from expanded global Internet access  
21 to its social media platform through expanding 5G networks. *See, e.g.,* Jessi Hempel, *Inside*  
22 *Facebook’s Ambitious Plan to Connect the Whole World*, WIRED (Jan. 19, 2016),  
23 <https://www.wired.com/2016/01/facebook-zuckerberg-internet-org/>.

24 283. Facebook also profits from expanded 5G networks, which can leverage other  
25 substantial investments it has made in new technologies. In 2014, Facebook acquired the  
26 virtual reality company Oculus for \$2 billion, and since then, Facebook has filed a number of  
27 related patents in the field of augmented reality technology (AR, VR, and home hardware  
28 products). *See, e.g.,* Christopher Yasiejko & Sarah Frier, *Facebook’s Augmented Reality Push*

1 *Causes Leap in U.S. Patents*, BLOOMBERG (Jan. 14, 2020),  
2 [https://www.bloomberg.com/news/articles/2020-01-14/facebook-s-leap-in-u-s-patents-hints-at-](https://www.bloomberg.com/news/articles/2020-01-14/facebook-s-leap-in-u-s-patents-hints-at-eye-on-virtual-reality)  
3 [eye-on-virtual-reality](https://www.bloomberg.com/news/articles/2020-01-14/facebook-s-leap-in-u-s-patents-hints-at-eye-on-virtual-reality) (Zuckerberg opinion that “at some point in the 2020’s, we will get  
4 breakthrough augmented reality glasses that will redefine our relationship with technology”);  
5 Leo Sun, *Will Facebook Redefine Augmented Reality With Stella and Orion?*, MOTLEY FOOL  
6 (Sept. 20, 2019), [https://www.fool.com/investing/2019/09/20/will-facebook-redefine-](https://www.fool.com/investing/2019/09/20/will-facebook-redefine-augmented-reality-with-stel.aspx)  
7 [augmented-reality-with-stel.aspx](https://www.fool.com/investing/2019/09/20/will-facebook-redefine-augmented-reality-with-stel.aspx) (With respect to augmented reality, Facebook plans to  
8 manufacture “smartglasses” which it has ‘codenamed’ ‘Stella,’ set to launch between 2023 and  
9 2025, and a more advanced model it has ‘codenamed’ ‘Orion.’). The success of these AR and  
10 other products depends to a significant extent (if not entirely) on Facebook’s capacity to  
11 exploit 5G networks’ increased bandwidth and speed.

12 284. Additionally, Facebook has solidified its position as a leading developer of  
13 artificial intelligence (“AI”) technology. 5G helps enable both AI and drone technology. Tom  
14 Taulli, *Facebook AI (Artificial Intelligence): Will M&A Help?*, FORBES (Feb. 15, 2020),  
15 [https://www.forbes.com/sites/tomtaulli/2020/02/15/facebook-ai-artificial-intelligence-will-ma-](https://www.forbes.com/sites/tomtaulli/2020/02/15/facebook-ai-artificial-intelligence-will-help/#104eed427664)  
16 [help/#104eed427664](https://www.forbes.com/sites/tomtaulli/2020/02/15/facebook-ai-artificial-intelligence-will-help/#104eed427664). Facebook purportedly has also been developing solar-powered drone  
17 technology. Jon Russell, *Facebook is reportedly testing solar-powered internet drones again*  
18 *— this time with Airbus*, TECHCRUNCH (Jan. 21, 2019), [https://techcrunch.com/2019/01/21/](https://techcrunch.com/2019/01/21/facebook-airbus-solar-drones-internet-program/?guccounter=1)  
19 [facebook-airbus-solar-drones-internet-program/?guccounter=1](https://techcrunch.com/2019/01/21/facebook-airbus-solar-drones-internet-program/?guccounter=1).

20 285. Finally, Facebook stands to benefit from its investments in the “Internet of  
21 Things” infrastructure that depends on 5G. At present, roughly 8.4 billion ‘things’ make up this  
22 ‘universe,’ - from cars to appliances to wearable tech – which represents a 31% increase in the  
23 past four years. By the year 2025, that number may increase to 55 billion internet-enabled  
24 devices. *The Internet of Things will thrive on 5G technology*, VERIZON (Jun. 12, 2018),  
25 <https://www.verizon.com/about/our-company/5g/internet-things-will-thrive-5g-technology>.  
26 Facebook’s business plan contemplates widespread exploitation of 5G networks across the  
27 globe to drive its platform’s profitability.

28

1           286. While Facebook has faced criticism from Rep. Schiff regarding vaccine  
2 “misinformation” and while there have been calls from public health institutions to address to  
3 vaccine “misinformation,” there have been little-to-no public calls regarding 5G. It would  
4 appear that censorship of CHD’s 5G-critical content is directly related to Facebook’s economic  
5 interests, quite possibly coming at the suggestion from Zuckerberg himself.

6           287. The 5G CHD material does not violate any community guidelines. *Community*  
7 *Standards, supra*, FACEBOOK, <https://www.facebook.com/communitystandards/>. Rather,  
8 Facebook and Zuckerberg have censored, flagged, and demoted CHD’s 5G-related posts in bad  
9 faith and for pretextual reasons to conceal their true motives in advancing 5G deployment  
10 globally, and suppressing any speech which increases 5G-“hesitancy,” here and abroad.

11           **G. No Affirmative Defense of CDA Section 230 Immunity.**

12           288. The Communications Decency Act (CDA) states: “No provider or user of an  
13 interactive computer shall be treated as the publisher or speaker of any information provided  
14 by another information content provider.” 47 U.S.C. § 230(c)(1). The affirmative defense of  
15 Section 230 immunity has been broadly construed as to information provided by third parties  
16 and hosted on Facebook. However, if an entity is “responsible, in whole or in part, for the  
17 creation or development of information” that forms the subject matter of the lawsuit, it is itself  
18 a content provider and is not protected. 47 U.S.C. § 230(f)(3).

19           289. In publishing its false “warning label” and “fact-checks,” Facebook has acted,  
20 and continues to act, both as an interactive computer service provider and as “content  
21 provider.” Section 230(f)(3) defines an information content provider as “any person or entity  
22 that is responsible, in whole or in part, for the creation or development of information provided  
23 through the Internet or any other interactive computer service.” Under Ninth Circuit law, as to  
24 content that a website service provider creates itself, or is responsible in whole or in part for  
25 creating or developing, the website is also a content provider. *Fair Housing Council v.*  
26 *Roommates.com, LLC*, 521 F.3d at 1162-63; *Fraley v. Facebook*, 830 F. Supp. 2d at 801-02.  
27 Under the CDA, 47 U.S.C. § 230(f)(3), Facebook’s warning label and its other affirmative  
28 content-development and creation far exceed “a publisher’s traditional editorial functions,”

1 *Batzel v. Smith*, 333 F.3d 1018, 1031 n.18 (9th Cir. 2003), and far exceed that content-creation  
2 of question-and-answer-sets which the Ninth Circuit found sufficient in the *Roommates.com*  
3 case. *See, e.g., Roommates.com*, 521 F.3d at 1163 (Congress did not seek to immunize “the  
4 *creation of content.*”) (emphasis added). Facebook has no immunity from liability for  
5 actionable harms arising from its fraudulent course of conduct.

6 290. 47 U.S.C. § 230(c)(2)(A) grants immunity from civil liability to an interactive  
7 computer service provider for “any action voluntarily taken *in good faith* to restrict access to or  
8 availability of material that the provider or user considers to be obscene, lewd, lascivious,  
9 filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material  
10 is constitutionally protected.” (Emphasis added). Here, Facebook’s application of fact-  
11 checking, demotion, and censorship against CHD are pretextual, and in truth are driven by  
12 Zuckerberg’s ulterior profit motives and ideological interests, and government pressure and  
13 benefits, rather than the vague catch-all for “otherwise objectionable” speech within  
14 Facebook’s community guidelines. For all the reasons alleged herein, Facebook and  
15 Zuckerberg have not acted in “good faith” with respect to CHD’s page, as required by 47  
16 U.S.C. § 230(c)(2)(A).

#### 17 **H. Section 230 Immunity Plus Pressure Equals State Action.**

18 291. There are very cogent reasons in law and public policy why some kind of  
19 constitutional scrutiny must be triggered when legislators, through an immunity statute, such as  
20 the Communications Decency Act (“CDA”) deliberately seek to induce private conduct that  
21 would violate constitutional rights if state actors engaged in that conduct themselves.

22 292. The U.S. Supreme Court has found state action in two cases where an immunity  
23 statute (or its equivalent) was coupled with official pressure on a private actor to address a  
24 specific issue: *Skinner v. Ry. Labor Execs.’ Ass’n.*, 489 U.S. 602 (1989) and *Bantam Books,*  
25 *Inc. v. Sullivan*, 372 U.S. 58 (1963). In *Skinner*, the Supreme Court held that a federal agency  
26 regulation designed to induce private railroads to test their workers for drugs and alcohol  
27 subjected a subsequent search by a private railroad to Fourth Amendment protections. The  
28 regulation immunized the railroad from all state law liability, and the government had made



1 plain its strong preference for testing. Accordingly, “the Government’s encouragement,  
2 endorsement, and participation” “suffice to implicate the Fourth Amendment.” *Skinner*, 489  
3 U.S. at 615-616.

4 293. Just as the agency regulation in *Skinner* immunized from state law liability  
5 railroads that administered specified tests, Section 230 immunizes from state law liability  
6 platforms that censor “lewd, lascivious, filthy, excessively violent, harassing or otherwise  
7 objectionable” material. Just as railway workers were not free to decline to submit to the tests,  
8 so too CHD cannot decline to submit to Facebook censorship; in both cases, individuals who  
9 refuse to comply can be excluded from service. And just as the government in *Skinner* had  
10 made plain its “strong preference” for the testing, Section 230 and its legislative history make  
11 plain the government’s strong preference for the removal of “offensive” content. Moreover, the  
12 CDC, WHO, and Rep. Schiff have actively encouraged, endorsed, and participated in  
13 Facebook’s conduct at issue here.

14 294. In *Bantam Books, supra*, the Supreme Court held that informal governmental  
15 pressure and threats can turn private-party conduct into state action. *Bantam*, 372 U.S. at 68. In  
16 *Bantam Books*, a private bookseller had stopped selling certain books after receiving a letter  
17 from state commissioners listing those books as objectionable and suggesting that the  
18 bookseller might be referred to local prosecutors if he continued selling them. The court found  
19 “state action.” *Bantam*, 372 U.S. at 72. The conceptual “bottom-line” is this: When  
20 governmental pressure is combined with a statutory provision like Section 230, the result must  
21 be state action. Immunity plus pressure has to trigger the Constitution’s restraints. This case  
22 offers a paradigm of how government immunity (Section 230) plus pressure (Rep. Schiff) and  
23 benefits and various forms of collaboration (CDC/WHO), should turn Facebook and  
24 Zuckerberg’s private-party conduct into state action.

25 **I. The May 28, 2020 Executive Order.**

26 295. On May 28, 2020, President Donald J. Trump issued an Executive Order on  
27 Preventing Online Censorship. The Executive Order provides, in pertinent part:  
28

1           *Sec. 2. Protections Against Online Censorship.* (a) [. . .] It is the  
 2 policy of the United States to ensure that, to the maximum extent  
 3 permissible under the law, this provision [47 U.S.C. § 230] is not  
 4 distorted to provide liability protection for online platforms that —  
 5 far from acting in “good faith” to remove objectionable content —  
 6 instead engage in deceptive or pretextual actions (often contrary to  
 7 their stated terms of service) to stifle viewpoints with which they  
 8 disagree. [. . .] When an interactive computer service provider  
 9 removes or restricts access to content and its actions do not meet  
 10 the criteria of [47 U.S.C. § 230] subparagraph (c)(2)(A), it is  
 engaged in editorial conduct. It is the policy of the United States  
 that such a provider should properly lose the limited liability shield  
 of subparagraph (c)(2)(A) and be exposed to liability like any  
 traditional editor and publisher that is not an online provider.

11 *Executive Order on Preventing Online Censorship*, Executive Orders, THE WHITE HOUSE  
 12 (May 28, 2020), [https://www.whitehouse.gov/presidential-actions/executive-order-preventing-](https://www.whitehouse.gov/presidential-actions/executive-order-preventing-online-censorship/)  
 13 [online-censorship/](https://www.whitehouse.gov/presidential-actions/executive-order-preventing-online-censorship/).

14           296. The Executive Order’s free expression principles are consistent with this lawsuit,  
 15 and its statement of the policy of the United States may be informative for the Court. But, as  
 16 set forth, *supra*, the Court need not rely upon the Executive Order to adjudicate this  
 17 controversy because CHD’s claims for relief are fully viable and warrant extraordinary relief  
 18 under existing authorities.

### **FIRST CAUSE OF ACTION**

#### **(FIRST AND FIFTH AMENDMENTS — BIVENS VIOLATIONS)**

#### **Defendants Facebook, Zuckerberg, Science Feedback, Poynter, and Does 1-20**

21           297. Paragraphs 1 through 252 are realleged and incorporated as if fully set forth  
 22 herein.  
 23

24           298. Plaintiff seeks an implied private damages remedy against private defendants  
 25 who act jointly or in concert with federal government agencies or actors to deny Plaintiff’s  
 26 First Amendment speech and Fifth Amendment property rights. *Davis v. Passman*, 442 U.S.  
 27 228 (1979) (implied damages remedy under Fifth Amendment Due Process Clause); *Bivens v.*  
 28 *Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971) (Fourth

1 Amendment). The private cause of action is implied under 28 U.S.C. § 1331 to vindicate  
2 constitutional rights which would otherwise go unredressed. By analogy to 42 U.S.C. § 1983,  
3 Plaintiff must show both (1) the deprivation of a right secured by the Constitution and laws of  
4 the United States, and (2) that the deprivation was committed by a person acting under color of  
5 [federal] law. *Tsao v. Desert Palace, Inc.*, 698 F.3d 1128, 1138 (9th Cir. 2012).

6 299. The purpose of *Bivens* is to deter individual federal officers from committing  
7 constitutional violations, and the constitutional tort remedy against private entities is foreclosed  
8 only where claimant has other effective remedies. *Corr. Servs. Corp. v. Malesko*, 534 U.S. 61,  
9 71 (2001); *cf. Davis v. Passman*, 442 U.S. at 245 (“For Davis, as for *Bivens*, it is damages or  
10 nothing.”). Here, too, a private remedy should be implied because Plaintiff has no other  
11 recourse to right the wrongs of all defendants, corporate and individual.

12 300. The First Amendment protects Plaintiff’s rights of free speech and association.  
13 Under the First Amendment, Americans have the right to hear all sides of every issue and to  
14 make their own judgments about those issues without government interference or limitations.  
15 Content-based restrictions on speech are presumptively unconstitutional, and courts analyze  
16 such restrictions under strict scrutiny. It is axiomatic that public agencies such as the CDC and  
17 WHO could not themselves directly censor or issue a prior restraint upon Plaintiff’s online  
18 speech. *See, e.g., Freedman v. Maryland*, 380 U.S. 51, 59 (1965) (motion picture exhibition  
19 censoring panel could prohibit screening of films only if it assured exhibitor “that the censor  
20 will, within a specified brief period, either issue a license or go to court to restrain showing the  
21 film”); *Speiser v. Randall*, 357 U.S. 513, 526 (1958) (“Where the transcendent value of speech  
22 is involved, due process certainly requires . . . that the State bear the burden of persuasion to  
23 show that the appellants engaged in criminal speech.”). So, here, the judicial branch must  
24 affirm a bedrock principle of liberty that governmental agencies cannot legally “sub-contract”  
25 or “privatize” the role of public censor to Facebook as an end-run around the Constitution.  
26 Facebook’s actions, taken “under color of” federal law, *Villegas v. Gilroy Garlic Festival*  
27 *Ass’n*, 541 F.3d 950, 954 (9th Cir. 2008) (en banc), constitute a violation of Plaintiff’s  
28 constitutional free speech rights.

1           301. Defendants’ deprivation of Plaintiff’s federal rights is “fairly attributable” to the  
2 government, *Lugar v. Edmondson Oil Co., Inc.*, 457 U.S. 922, 937 (1982), as it was taken with  
3 significant encouragement from, and in close consultation with, governmental agencies and  
4 actors. *Franklin v. Fox*, 312 F.3d 423, 444-45 (9th Cir. 2002). Ultimately, joint action exists  
5 when the government has ““*so far insinuated itself into a position of interdependence with [the*  
6 *private entity] that it must be recognized as a joint participant in the challenged activity.*””  
7 *Gorenc v. Salt River Project Agric. Improvement & Power Dist.*, 869 F.2d 503, 507 (9th Cir.  
8 1989) (emphases added). Defendants’ misconduct is a far cry from “merely hosting speech by  
9 others.” *Manhattan Cmty. Access Corp. v. Halleck*, 139 S. Ct. 1921, 1930 (2019); *Fed. Agency*  
10 *of News LLC v. Facebook, Inc.*, 432 F. Supp. 3d 1107, 1124-1126 (N.D. Cal. 2020) (supplying  
11 information to the State alone does not amount to state action).

12           302. Specifically, the corporate and individual defendants have acted in concert with  
13 Rep. Schiff, federal officials at the CDC and the CDC Foundation, and under the CDC’s  
14 express consent, the WHO, a United Nations specialized agency, to deprive Plaintiff of its  
15 constitutional free expression rights. At all times relevant hereto, the United States was a  
16 member of the WHO. Under Article 71 of its Constitution, the WHO may only consult and  
17 cooperate with non-governmental national organizations *with the consent of the Government*  
18 *concerned. Basic Documents, WORLD HEALTH ORGANIZATION, supra*, [https://apps.who.int/  
19 gb/bd/pdf\\_files/BD\\_49th-en.pdf#page=1](https://apps.who.int/gb/bd/pdf_files/BD_49th-en.pdf#page=1) (emphasis added).

20           303. Facebook willfully participated in joint action with Rep. Schiff, CDC and CDC  
21 Foundation, and/or WHO officials or their agents to enforce CDC and WHO policies through  
22 Facebook’s signature algorithms and machine learning to define, identify, label as “false news”  
23 and/or censor Plaintiff’s speech with respect to vaccine-related speech. For *Bivens* purposes,  
24 the WHO must be recognized as a public entity, particularly when its charter requires official  
25 consent for its involvement with Facebook.

26           304. Rep. Schiff’s February 14, 2019 public letter to Zuckerberg deployed the term  
27 “vaccine misinformation” as it has been used by the CDC and WHO, as a substantive standard  
28 by which to censor, flag, or demote any expression of skepticism toward government or

1 pharmaceutical industry pronouncements about vaccine safety or efficacy, regardless of its  
2 truth. Rep. Schiff also forcefully encouraged Facebook to refer users to “authoritative” sources  
3 of information, i.e., the CDC and/or WHO.

4 305. On March 7, 2019, with flagrant disregard for CHD’s nine-page letter rebuttal,  
5 Facebook publicly cited the CDC and WHO as *the* sources of Facebook’s initiative to identify  
6 and “take action against verifiable vaccine hoaxes,” including removing such content from its  
7 platform. Facebook also identified those governmental agencies as *the* sources of affirmative  
8 information which Facebook would instead provide to its members, by posting that content at  
9 the top of results for related searches, on pages discussing the topic, and on invitations to join  
10 groups about the topic. *Combatting Vaccine Misinformation*, FACEBOOK, *supra*,  
11 <https://about.fb.com/news/2019/03/combating-vaccine-misinformation/>. The same day that  
12 Facebook published its Warning Label on CHD’s page, the WHO publicly boasted that  
13 Facebook’s effort was the product of “*several months of discussion*” between the two. *Vaccine*  
14 *Misinformation: Statement by WHO Director-General on Facebook and Instagram*, *supra*,  
15 [https://www.who.int/news-room/detail/04-09-2019-vaccine-misinformation-statement-by-who-](https://www.who.int/news-room/detail/04-09-2019-vaccine-misinformation-statement-by-who-director-general-on-facebook-and-instagram)  
16 [director-general-on-facebook-and-instagram](https://www.who.int/news-room/detail/04-09-2019-vaccine-misinformation-statement-by-who-director-general-on-facebook-and-instagram) (emphasis added). Unlike *Fed. Agency of News*  
17 *LLC v. Facebook, Inc.*, 432 F. Supp. 3d at 1126, where no plausible “meeting of the minds”  
18 was alleged, Facebook’s consultation and joint action with the CDC and WHO predates and  
19 provides the template by which Facebook has injured Plaintiff, and strongly suggest extensive  
20 willing collaboration between them toward that end..

21 306. Moreover, defendants integrated CDC and WHO definitions of “vaccine hoax”  
22 into the algorithms and machine learning by which they have identified CHD’s content, which  
23 is often flagged merely because it is critical of those same agencies as “biased”, “unreliable”,  
24 and “out-of-date.” Science Feedback’s “fact-checker” responses merely cite to those flawed  
25 CDC studies of which Plaintiff is justly critical. Essentially, the government furnished critical  
26 information to Facebook, which Facebook then willfully used to effectuate its misinformation  
27 and agitprop scheme. Defendants’ behavior qualifies as “state action” under the joint action  
28 test due to their active cooperation and interdependence with the CDC and WHO. On the

1 public record, there is a “sufficiently close nexus” or symbiosis between the federal  
2 government and the challenged actions of defendants that the actions of the latter may be fairly  
3 treated as those of the government itself. *Jackson v. Metropolitan Edison Co.*, 419 U.S. 345,  
4 351 (1974). The CDC’s and WHO’s open and extensive coordination with Facebook shows  
5 “state action” in furtherance of an agreement between the government and a private party for  
6 purposes of Plaintiff’s *Bivens* claim.

7 307. Rep. Schiff also acted “under color of federal law” in issuing his pointed request  
8 to Facebook to censor and remove “vaccine misinformation” from its platform. Thus, Rep.  
9 Schiff’s conditional notice to remove Facebook’s Section 230 immunity also constitutes  
10 “significant encouragement, either overt or covert, that the [private actor’s] choice must in law  
11 be deemed to be that of the State.” *Blum v. Yaretsky*, 457 U.S. 991, 1004 (1982).

12 308. It is well-established that, as a general rule, the government “may not suppress  
13 lawful speech as the means to suppress unlawful speech.” *Ashcroft v. Free Speech Coalition*,  
14 535 U. S. 234, 255 (2002). Facebook has closely coordinated with government actors in the  
15 design of its aims, and the technical means by which Facebook applies public agency  
16 definitions and literature to accomplish their jointly-held goals: to identify, warn against,  
17 purportedly “rebut,” and censor so-called “vaccine hoax” speech. Facebook’s actions in  
18 censoring CHD’s protected speech amount to state action for purposes of the First  
19 Amendment. *See, e.g., Fonda v. Gray*, 707 F.2d 435, 438 (9th Cir. 1983).

20 309. In the typical case raising a state action issue, a private party has taken the  
21 decisive step that caused the harm to the Plaintiff, and the question is whether the State was  
22 *sufficiently involved* to treat that decisive conduct as state action. *Nat’l Collegiate Athletic*  
23 *Ass’n. v. Tarkanian*, 488 U.S. 179, 192, 102 L. Ed. 2d 469, 109 S. Ct. 454 (1988). Beyond the  
24 public record cited *supra*, the missing pieces of official “involvement” are within the Facebook  
25 defendants’ possession, custody, and control. Plaintiff requires judicial process to obtain  
26 defendants’ records and recollections of the “who, what, when, where, why, and how” of  
27 Facebook’s collaboration with Rep. Schiff, the CDC and WHO, the CDC Foundation, and/or  
28 others under their supervision or control, to design, implement, and monitor Facebook’s

1 “vaccine misinformation” algorithm for identifying anti-CHD content, and/or to supervise or  
2 monitor Facebook “fact-checkers” opposition articles.

3 310. Assessing whether conduct by Facebook and Zuckerberg constitutes action under  
4 “color of law” is a “necessarily fact-bound inquiry,” addressed on a case-by-case basis. *Lugar*  
5 *v. Edmondson Oil Co., Inc.*, 457 U.S. at 939; *see also Skinner v. Ry. Labor Execs.’ Assoc.*, 489  
6 U.S. at 614 (holding that courts consider the totality of the circumstances to determine whether  
7 conduct amounts to state action). There is no rigid formula for assessing whether there is a  
8 sufficiently close nexus between the State and the challenged private conduct. “Only by sifting  
9 facts and circumstances can the nonobvious involvement of the State in private conduct be  
10 attributed its true significance.” *Burton v. Wilmington Parking Auth.*, 365 U.S. at 722.

11 311. Here, there are several overlapping features in the public record, which is the “tip  
12 of the iceberg.” First, the CDA Section 230 immunity statute plus the “informal policy” of  
13 coercion and encouragement by which Rep. Schiff, the WHO (with express consent of the  
14 CDC), and the CDC itself induced Facebook’s censorship rises to the level of state action  
15 under the *Skinner* and *Bantam Books* line of cases. Second, the CDC and CDC Foundation,  
16 WHO, Facebook and Zuckerberg have formed a “symbiotic relationship” with one another,  
17 from which the government benefits, and whose division of labor is that Facebook serves as  
18 those public agencies’ “content manager” on its platform. In other nonobvious ways, those  
19 government agencies and Facebook “somehow reached an understanding,” or quid pro quo, to  
20 censor and demonetize CHD’s page. *See Adickes v. S.H. Kress & Co.*, 398 U.S. 144, 152  
21 (1970) (conspiracy between private restaurant and policeman to arrest plaintiff schoolteacher  
22 following her sitdown strike). “The mere fact that [Facebook] might have been willing to act  
23 without coercion makes no difference if the government did coerce.” *Carlin Communications*  
24 *Inc. v. Mountain States Tel. & Tel. Co.*, 827 F.2d 1291, 1295 (9th Cir. 1987), *cert. denied*, 483  
25 U.S. 1029 (1988).

26 312. Facebook and the other defendants violated Plaintiff’s First Amendment rights  
27 by labeling CHD’s content “False Information,” and taking other steps effectively to censor or  
28 block content from users. With a mix of these and other nonobvious forms of governmental

1 coercion and encouragement, Facebook took these actions against Plaintiff in an effort to  
2 silence and deter its free speech solely on account of their viewpoint. The case raises an urgent  
3 wrong that will go unredressed absent a judicial remedy fitted to the high stakes of speech  
4 suppression in a free society.

5 313. In addition, the Fifth Amendment provides that “[n]o person shall be . . .  
6 deprived of . . . property, without due process of law; nor shall private property be taken for  
7 public use, without just compensation.” U.S. CONST. amend. V. In May 2019, Facebook  
8 permanently disabled the “donate” button on CHD’s Facebook page, for and in which action  
9 Facebook received significant encouragement from the government. *Cf. Del's Big Saver Foods,*  
10 *Inc. v. Carpenter Cook, Inc.*, 795 F.2d 1344, 1346 (7th Cir. 1986) (“A state cannot avoid its  
11 obligations under the due process clause by delegating to private persons the authority to  
12 deprive people of their property without due process of law.”). And, as Rep. Schiff requested,  
13 Facebook also refused to carry CHD’s advertising of its fundraising campaigns.

14 314. Facebook misrepresented to CHD as its rationale that CHD had violated its  
15 fundraising terms. But, in actuality, Facebook took these punitive actions to squelch CHD’s  
16 viewpoint by cutting off its donations. Defendants’ actions amount to an unlawful deprivation  
17 or “taking” of Plaintiff’s property interests in its own fundraising functions.

18 315. “[T]he existence of a property interest is determined by reference to ‘existing  
19 rules or understandings that stem from an independent source such as state law.’” *Phillips v.*  
20 *Washington Legal Foundation*, 524 U.S. 156, 164 (1998) (quoting *Board of Regents of State*  
21 *Colleges v. Roth*, 408 U.S. 564, 577 (1972)). Certainly, by that measure, the funding button is a  
22 “thing of value” to CHD as its beneficial owner, and a valid property interest by means of  
23 which CHD raised \$41,241 in user donations from January to May 2019 alone. *See, e.g.,*  
24 *Boston Chamber of Commerce v. Boston*, 217 U.S. 189, 195 (1910) (Holmes, J.) (“the question  
25 is what has the owner lost, not what has the taker gained”). Indeed, it may be said that  
26 Facebook’s fundraising function is as much a lifeblood for CHD as it is for many other  
27 501(c)(3) organizations, and that the power to remove it at the government’s behest is the  
28 power to destroy these charitable organizations.



1           316. Facebook violated Plaintiff's Fifth Amendment rights by confiscating its  
2 fundraising functions under color of law without just compensation or due process. Facebook  
3 took these actions against CHD in order to snuff out CHD's ability to raise funds, solely on  
4 account of CHD's viewpoint. Defendants' removal of the donate button is conduct suggesting  
5 that CHD is unworthy of monetary contributions and, thus, the object of special opprobrium,  
6 all damaging to CHD's reputation and its ability to sustain itself. This represents another  
7 urgent wrong that will go unredressed absent a judicial remedy fitted to the high stakes of  
8 officially sponsored viewpoint-suppression in a free society.

9           317. Additionally, to establish a First Amendment retaliation claim, Plaintiff must  
10 show that: (1) it engaged in constitutionally protected activity; (2) the defendants' resulting  
11 actions would chill a person of ordinary firmness from continuing to engage in the protected  
12 activity; and, (3) the protected activity was a substantial or motivating factor in the defendants'  
13 conduct. *See Pinard v. Clatskanie Sch. Dist.* 6J, 467 F.3d 755, 770 (9th Cir. 2006); *Skoog v.*  
14 *County of Clackamas*, 469 F.3d 1221, 1235 (9th Cir. 2006) (plaintiff stated a claim for First  
15 Amendment retaliation by asserting that a police officer had obtained and executed a search  
16 warrant against him to punish him for filing a lawsuit against another police officer).

17           318. On August 17, 2020, CHD filed this action against Facebook and Zuckerberg.  
18 On or about August 31, 2020, CHD received notice that Facebook would modify the parties'  
19 contractual term of service § 3.2, effective October 1, 2020, to read: "We also can remove or  
20 restrict access to your content, services, or information if we determine that doing so is  
21 reasonably necessary to avoid or mitigate adverse legal or regulatory impacts to Facebook."

22           319. Essentially, the Facebook-CHD relationship has morphed over three stages:  
23 (1) the pre-2019 one in which Facebook did not interfere at all with CHD's truthful content;  
24 (2) the 2019 through August 17, 2020 one in which Facebook damaged CHD through flags,  
25 labels, and "fact-checks"; and (3) the post-August 17, 2020 one in which Facebook, still acting  
26 under "color of law," has damaged CHD in new and other ways by removing CHD's content or  
27 restricting accessing to the material to CHD principals. Section 3.2 purports to allow Facebook  
28 to do that simply to "avoid adverse legal or regulatory impacts to Facebook." And that is

1 precisely what Facebook has now done under its new § 3.2 in the ten weeks since the action  
2 was filed. This third paradigm states a clear case of retaliation by Facebook in the context of  
3 CHD's protected activity in filing this action, at least in part because the removal of this CHD  
4 content and the restriction of access to it, were not actions that Facebook deemed authorized  
5 under its prior terms.

6 320. Close proximity in time between a protected activity and an adverse action alone  
7 establish a prima face case of retaliatory causation. Facebook's use of its newly-amended § 3.2  
8 so close on the heels of CHD's lawsuit to demote or block CHD's previously "fact-checked"  
9 content is clear evidence that Facebook (in its role as a state actor) is also retaliating for CHD's  
10 protected conduct in filing the action.

11 321. Plaintiff needs process to ascertain the full extent to which Facebook has  
12 demoted or blocked its posts since the filing of this action, and that Facebook has taken these  
13 steps, also, under "color of law." So far as Plaintiff can establish, it appears that, since August  
14 17, 2020, Facebook has retaliated for CHD's protected activity by removing entirely at least  
15 six previously "fact-checked" CHD posts, which are no longer visible as of November 8, 2020  
16 at the latest: (1) Epoch Times CDC vaccines/autism article (factchecked on or about March 13,  
17 2020; (2) The Jewish Voice Luc Montagnier COVID article (fact-checked on or about April  
18 16, 2020, but no longer visible); (3) RFK, Jr. Merck/Gardasil presentation (fact-checked on or  
19 about May 15, 2020, but no longer visible); (4) Brian Hooker vaxxed/unvaxxed article (fact-  
20 checked on or about May 28, 2020, but no longer visible); (5) Decreased Infant Deaths (fact-  
21 checked on or about June 20, 2020, but no longer visible); and (6) RFK, Jr./Dershowitz Debate  
22 (posted on or about July 23, 2020, but no longer visible).

23 322. "[The plaintiff] must ultimately prove that [the defendant's] desire to cause the  
24 chilling effect was a but-for cause of [the defendant's] action." *Dietrich v. John Ascuaga's*  
25 *Nugget*, 548 F.3d 892, 900-01 (9th Cir. 2008) (citation omitted); *see also Vinatieri v. Mosley*,  
26 787 F. Supp. 2d 1022, 1033 (N.D. Cal. 2011) *aff'd*, 532 Fed. Appx. 762 (9th Cir. 2013).  
27 "Because direct evidence of retaliatory intent rarely can be pleaded in a complaint, allegation  
28 of a chronology of events from which retaliation can be inferred is sufficient to survive

1 dismissal.” *Watison v. Carter*, 668 F.3d 1108, 1114 (9th Cir. 2012); *Pratt v. Rowland*, 65 F.3d  
 2 802, 808 (9th Cir. 1995) (“timing can properly be considered as circumstantial evidence of  
 3 retaliatory intent”). It is also significant that, despite having removed the purportedly  
 4 “harmful” content, Facebook has not restored CHD’s fundraising tools. This suggests that  
 5 CHD’s posts were pretextually fact-checked in order to justify demonetization in the first  
 6 place.

## 7 SECOND CAUSE OF ACTION

### 8 (LANHAM ACT VIOLATIONS — 15 U.S.C. § 1125(A))

#### 9 **Defendants Facebook, Zuckerberg, Science Feedback, Poynter, and Does 1-20**

10 323. Paragraphs 1 through 1272 are realleged and incorporated as if fully set forth  
 11 herein.

12 324. The elements of a false promotion claim under the Lanham Act, 15 U.S.C.  
 13 § 1125(a)(1)(B), are: (1) in an advertisement or promotion, defendants made false statements  
 14 of fact about its own or another’s services; (2) the promotion actually deceived or has the  
 15 tendency to deceive a substantial segment of their audience; (3) such deception is material, in  
 16 that it is likely to influence the purchasing decision; (4) defendants caused their falsely  
 17 promoted services to enter interstate commerce; and (5) Plaintiff has been or is likely to be  
 18 injured as the result of the foregoing either by direct diversion of sales from themselves to  
 19 defendants, or by lessening of the goodwill which its services enjoy with the buying public.  
 20 *Rice v. Fox Broad Co.*, 33 F.3d 1170, 1180 (9th Cir. 2003). Facebook’s warning label and  
 21 “fact-checks” on CHD’s page violate the Lanham Act in that these are (1) commercial speech;  
 22 (2) by defendants who or whose privities are in commercial competition with Plaintiff; (3) for  
 23 the purpose of influencing consumers to buy defendants’ goods or services, or to lessen the  
 24 goodwill which CHD’s services enjoy with the contributing public; and (4) disseminated  
 25 sufficiently to the relevant purchasing public to constitute “promotion” within that industry.  
 26 *Coastal Abstract Serv., Inc. v. First Am. Title Ins. Co.*, 173 F.3d 725, 735 (9th Cir. 1999).  
 27 Facebook and the individual defendants made, authored, and published the warning label and  
 28 “fact-checks” on CHD’s page in order to deter Plaintiff’s followers and other consumers from

1 listening to, trusting, and relying on Plaintiff’s content, and donating or contributing to  
2 Plaintiff. By warning consumers instead to “go to CDC.gov” for “reliable and up-to-date  
3 [vaccine] information,” defendants intended to persuade consumers instead to follow the  
4 CDC’s recommendations to get the vaccines produced by its major advertisers, Merck, GSK,  
5 Sanofi, and Pfizer, who buy \$1 billion per annum in advertisements from Facebook.

6 325. The Lanham Act is not strictly limited to conduct that is unfair to a direct  
7 competitor, if defendant is affiliated with a competitor. Here, it suffices that Facebook is  
8 engaged in promoting competitive products through its pharmaceutical manufacturer  
9 advertisers, and competitive services through its affiliation with the CDC and WHO. *See, e.g.,*  
10 *Grasshopper House, LLC v. Clean & Sober Media LLC*, 394 F. Supp. 3d 1073 (C.D. Cal.  
11 2019) (finding liability where adverse reviewer was allied with competitor). Facebook’s  
12 intention to lessen the goodwill which CHD’s services enjoy is manifest from its false  
13 “warning label” and “fact-checks” and its disabling of CHD’s fundraising function and  
14 advertising. Plaintiff has suffered a competitive injury under the Lanham Act.

15 326. The false representations need not be made in a “classic advertising campaign,”  
16 but may consist instead of more informal types of “promotion.” *Coastal Abstract Serv., Inc. v.*  
17 *First Am. Title Ins. Co.*, 173 F.3d at 735. Facebook’s “warning label” and “fact-checks” are  
18 promotional in that these are all part of Facebook’s ongoing “vaccine misinformation” public  
19 relations campaign. *See, e.g., Bolger v. Youngs Drug Products Corp.*, 463 U.S. 60, 77 (1983)  
20 (mailing of informational pamphlets by non-profit organization can be classified as  
21 commercial speech). Facebook’s “community initiatives” are promotional by definition  
22 because Facebook’s business model is, always and in all things, to manufacture users’ “trust”  
23 in Facebook – so Facebook can collect, manipulate, and market more of those trusting users’  
24 data. “Facebook’s business model [] rests on the need to keep consumers engaged in its  
25 services on the one hand and the need to monetize the data it gathers by targeting those users  
26 with new services and advertising on the other. [. . .] Over the long term, Facebook’s business  
27 model must evolve to center around trust, which means making user privacy and data security  
28

1 as important as monetization.” Adam Burt, *Can Facebook Ever Be Fixed?*, HARVARD  
2 BUSINESS REVIEW (April 8, 2019), <https://hbr.org/2019/04/can-facebook-ever-be-fixed>.

3 327. Facebook and CHD may reasonably be considered commercial competitors with  
4 respect to the messaging regarding vaccines and 5G that they promulgate to Facebook users.  
5 That Facebook views CHD as a competitor is demonstrated by its comprehensive, carefully  
6 planned and aggressive campaign to falsely label CHD’s website content, to marginalize and  
7 stigmatize CHD, and to subject it to severe commercial damage by cutting off CHD’s  
8 advertising and deactivating its funding button. CHD depends on donor funds for its survival.  
9 Facebook — possessing commercial power which most businesses do not have with respect to  
10 their competitors — has engaged in the ultimate form of unfair commercial competition by  
11 unilaterally cutting off a major source of CHD’s funding. This particular censorship technique  
12 is integrally linked with Facebook’s false warning labels and false “fact-checks” which  
13 mischaracterize CHD’s website content. All of these devices are part of Facebook’s false  
14 advertising campaign directed against CHD for the overarching purpose of stigmatizing CHD’s  
15 messages regarding vaccine transparency, oversight, and informed consent, diminishing  
16 CHD’s ability to reach viewers and to advertise, and ultimately rendering it unable to sustain  
17 itself financially. The methods are false advertising in combination with other forms of  
18 censorship; Facebook’s goal is the silencing of CHD, and, ultimately, its extinction.

19 328. Facebook has engaged in unfair competition through the false and misleading  
20 nature of the content it has posted concerning CHD’s content on its website concerning the  
21 potential dangers of vaccines and 5G. Facebook has conveyed to viewers that CHD’s content  
22 and information concerning these dangers is false. As discussed in some detail herein, CHD’s  
23 content is not false, and Facebook’s content labelling it as such is false and misleading in  
24 violation of the Lanham Act.

25 329. There are further aspects of Facebook’s warning labels affixed to CHD’s content  
26 that render them false and misleading. To the extent that Facebook has labelled some of CHD’s  
27 material as “Partly False,” this is inherently misleading. To label something as “partly false” is  
28 to concede that the material is also “partly true.” Misleadingly, Facebook’s “partly false” label,

1 which focuses only on the supposed falsity of CHD’s content, omits to specify the information  
2 that is true, does not distinguish between the true and allegedly false information, and does not  
3 attempt to indicate the relative proportion between the admittedly true information and the  
4 allegedly false content. Instead, the essential message conveyed by CHD’s warning labels is  
5 that all of CHD’s material is false. Facebook has treated as “false” even information that it  
6 implicitly concedes is true — and, like all of CHD’s content, even the concededly true content  
7 is subject to demotion by Facebook, prevented from obtaining advertising, and subject to  
8 Facebook’s blanket deactivation of CHD’s funding button. At the very least, Facebook’s  
9 deliberate failure to distinguish in its messaging between what it alleges is “false” or “partly  
10 false” in CHD’s posts and what it concedes is true reveals quite literally a reckless disregard  
11 for truth on Zuckerberg’s and Facebook’s part in their campaign against CHD.

12 330. Additionally, to the extent that CHD’s vaccine safety posts raise matters of open  
13 scientific dispute not susceptible of definite resolution or characterization as either “true” or  
14 “false, Facebook has misled users by conveying the impression that these issues are not, in  
15 fact, matters for open debate, that Facebook alone is capable of discerning “truth” in these  
16 matters, that its (and CDC’s and WHO’s) conclusions alone are true, and that CHD’s materials  
17 are not only false, but should not even be read or considered. Facebook’s touting of its use of  
18 “fact-checkers” underscores its misleading message that open or debatable scientific issues  
19 concerning vaccines and 5G are matters of resolved fact. It is not only the verbal content of  
20 Facebook’s messaging that conveys this message. Its demotion of CHD’s content, cutting off  
21 of CHD’s advertising and the deactivation of CHD’s funding mechanism collectively convey  
22 that CHD’s content does not merit the viewership and the financial support that, before  
23 Facebook’s censorship, flowed from such viewership. Facebook’s stance, and its false certainty  
24 regarding open scientific controversies, is contrary to historical experience, which is replete  
25 with complex scientific issues that are never definitively resolved, but may be subject to  
26 continuous scientific debate and reevaluation. Indeed, what appears at a given time to represent  
27 the scientific “consensus” or to reflect the weight of “accepted” scientific authority is all too  
28 often subject to reevaluation and ultimate reversal in favor of a revised and very different

1 “consensus.” Facebook’s essential message that the issues concerning the efficacy and safety  
2 of vaccines are closed and settled is false and misleading. It has used this false message in an  
3 illegal scheme to damage CHD commercially, and ultimately to attempt to destroy it.

4 331. The misleading nature of Facebook’s campaign against CHD has another  
5 element: it fails in its messaging to disclose its own conflicts of financial interest that inform  
6 and propel its false labelling of CHD’s content. Thus, Facebook’s warning labels against CHD  
7 fail to warn users of Facebook’s and Zuckerberg’s own extensive forays in the Vaccine and 5G  
8 industries, the vast extent of advertising on Facebook engaged in by major pharmaceutical  
9 companies, or that such advertising has steadily increased each year since 2017. Nor is any  
10 disclosure made to viewers concerning the pressure exerted by powerful politicians, prominent  
11 among them Rep. Schiff, to have Facebook mount a campaign against alleged CHD  
12 misinformation, or Facebook and Zuckerberg’s entanglements with the CDC, lest Facebook’s  
13 CDA Section 230 immunity be jeopardized or lost — an immunity which Facebook considers  
14 vital to its current business model.

15 332. Statements on websites are generally available to the public at large, and satisfy  
16 the commercial speech requirement. In addition, defendants published the “warning label” and  
17 “fact-checks” as part of its own promotional campaign to lobby government officials to  
18 preserve its immunity under the CDA, and to persuade consumers that its content-management  
19 process warrants their continued trust and patronage.

20 333. The “warning label” and “fact-check” deceptions are “material” in that these are  
21 likely to lessen the goodwill that CHD’s services enjoy with the public and to influence  
22 consumers’ vaccine purchasing decisions. *Cook, Perkiss, and Liehe, Inc. v. N. Cal. Collection*  
23 *Serv.*, 911 F.2d 242, 244 (9th Cir. 1990). By affixing the “warning label” and “fact-checks” to  
24 CHD’s Facebook page where these have been viewed hundreds of thousands of times since  
25 September 4, 2019 by members of Facebook’s global community, defendants effectively  
26 disseminated their false statements widely within the relevant purchasing public.

27 334. As alleged more specifically *infra*, on or about September 4, 2019 and  
28 continuously since then, defendants Facebook and Zuckerberg have made, authored, and/or

1 published and circulated false and unprivileged statements about CHD in the form of  
2 Facebook’s Warning Label on CHD’s Facebook page. A warning label is, by definition, the  
3 disclosure of facts concerning dangers inherent in the use of a product or service. *Black’s Law*  
4 *Dictionary* 1421 (5th ed. 1979) (“The purpose of a ‘warning’ is to apprise a party of the  
5 existence of danger of which he is not aware to enable him to protect himself against it[.]”).  
6 Facebook has perverted the consumer-safety protection of a manufacturer’s “duty to warn” into  
7 a license to denigrate true speech where the truth conflicts with Facebook’s economic interests,  
8 business model, and/or relations with government, or Zuckerberg’s own perception of what is  
9 true or scientific fact.

10 335. Facebook’s warning label concerning CHD is false on its face and by clear  
11 implication. Defendants knew that their warning label was untrue and perpetuated it to divert  
12 users from CHD’s Facebook page to the CDC’s website. This was one of the tactics in  
13 defendants’ RICO fraud enterprise to damage CHD financially and marginalize it’s health  
14 advocacy work, and unjustly enrich themselves through their continued receipt of billions of  
15 dollars in pharmaceutical advertising revenue, and billions more in future vaccine and 5G  
16 network-related profits.

17 336. Defendants’ false statements have already harmed Plaintiff and likely will harm  
18 it in the future, especially within the large community of CHD followers, and among countless  
19 others who wish to be informed of true facts about vaccine safety risks. CHD’s Facebook page  
20 is both reliable and up-to-date, within the common meaning of those terms, as demonstrated by  
21 the specific content at issue here, and the internal processes by which CHD fact-checks and  
22 cite-checks all its posts, labels them unmistakably as articles or editorials, and updates content  
23 multiple times a week. Plaintiff has been seriously damaged as a direct and proximate cause of  
24 the falsity of the defendants’ warning label, in an amount to be determined at trial. The false  
25 statement attributes conduct, characteristics, and conditions incompatible with the proper  
26 exercise of Plaintiff’s trade and professional duties. The false statements were intended to hold  
27 Plaintiff up to hatred, distrust, contempt, aversion, ridicule, and disgrace in the minds of a  
28 substantial number in that community, and were calculated to harm, and have harmed their



1 business relationships and goodwill, and deterred others from associating or dealing with  
2 Plaintiff. Defendants' warning label constitutes egregious conduct constituting malice.  
3 Defendants' acts were willful and malicious. As such, in addition to compensatory damages  
4 and/or presumed damages, Plaintiff demands punitive damages relating to defendants' making  
5 of the above-referenced false statements and other willful misconduct, in an amount to be  
6 determined at trial.

7 337. California defamation law provides a reference point for establishing defendants'  
8 false promotion liability for willfully publishing its false "warning label" on Plaintiff's page:  
9 (1) defendants published the statements; (2) the statements were about Plaintiff; (3) they were  
10 false; and (4) defendants failed to use reasonable care to determine the truth or falsity. CAL.  
11 CIV. CODE § 45 (defining the tort of libel as a "writing" or "fixed representation," which  
12 exposes any person to hatred, contempt, ridicule, or obloquy, or which causes him to be  
13 shunned or avoided, or *which has a tendency to injure him in his occupation*") (emphasis  
14 added); *Hecimovich v. Encinal Sch. Parent Teacher Org.*, 203 Cal. App. 4th 450, 470 (2012).  
15 Where Plaintiff is a public figure, the speech concerns a matter of public concern, *and*  
16 defendants are media publishers, then Plaintiff must prove that defendants acted with "actual  
17 malice." *Milkovich v. Lorain Journal Co.*, 497 U.S. 1, 14 (1990). *Milkovich* left open the  
18 question whether, in the case of a non-media publisher defendant, Plaintiff must show only that  
19 defendants did not act with reasonable care "in checking on the truth or falsity of the  
20 information before publishing it." *Carney v. Santa Cruz Women Against Rape*, 221 Cal. App.  
21 3d 1009, 1016 (1990). By contrast, a public figure Plaintiff suing a media publisher defendant  
22 must prove that defendant acted with "actual malice," which requires a showing that a  
23 statement was made "with knowledge that it was false or with reckless disregard of whether it  
24 was false or not." *New York Times Co. v. Sullivan*, 376 U.S. 254, 280 (1964) (the "*New York*  
25 *Times*" standard).

26 338. Under California law, defamation is "the intentional publication of a statement of  
27 fact which is false, unprivileged, and has a natural tendency to injure or which causes special  
28 damages." *Gilbert v. Sykes*, 147 Cal. App. 4th 13, 27 (2007). Facebook and Zuckerberg

1 “published” their Warning Label on CHD’s Facebook page by inserting that “writing . . . or  
2 other fixed representation to the eye” in a place of prominence of the page where it appears  
3 every time a user opens the page, except where that user has previously seen it and deleted it.  
4 California recognizes two types of libel (CAL. CIV. CODE § 45a): libel per se, which is  
5 defamatory on its face, when read *in context*, and libel per quod, which a reasonable reader  
6 would be able to recognize only by knowledge of specific facts and circumstances *extrinsic* to  
7 the publication. Libel per se permits recovery of general damages, including reputational harm  
8 and punitive damages, while libel per quod requires proof of “special damages” which are  
9 defined narrowly to encompass only economic damages. CAL. CIV. CODE § 48a; *Gomes v.*  
10 *Fried*, 136 Cal. App. 3d 924, 939 (1982).

11 339. The Second Restatement of Torts defines the “context” of a statement to “include  
12 all parts of the communication that are ordinarily read with it.” RESTATEMENT (2D) OF TORTS  
13 § 563(d). For example, “the entire contents of a personal letter are considered as the context of  
14 any part of it because a recipient of the letter ordinarily reads the entire communication at one  
15 time.” *Id.*; *Knieval v. ESPN*, 393 F.3d 1068, 1076 (9th Cir. 2005) (Ninth Circuit adopts the  
16 Second Restatement of Torts’ distinction between “context” and “extrinsic circumstance”).  
17 Defendants’ defamatory statement must be read and considered in the context of the other  
18 content of CHD’s Facebook page where it appears, and to which it refers expressly and by  
19 necessary implication.

20 340. Here, the context in which Facebook’s Warning Label on CHD’s page would  
21 ordinarily be seen and read includes: CHD’s own mission statement on that same page that  
22 vaccine safety should be taken away from the CDC; CHD’s message, “Read about CDC &  
23 WHO corrupt financial entanglements with vaccine industry, [childrenshealthdefense.org/cdc-](http://childrenshealthdefense.org/cdc-who)  
24 [who](http://childrenshealthdefense.org/cdc-who)”; and that context incorporates by reference numerous articles on CHD’s page which call  
25 out and criticize the CDC’s continued adherence to its “all vaccines for all children” policy.  
26 *See, e.g., CDC Corruption, Deceit, and Cover-Up; CDC’s Vaccine “Science”—A Decades*  
27 *Long Trail of Trickery; Why You Can’t Trust the CDC on Vaccines; CDC and WHO Corrupt*  
28 *Financial Entanglements with the Vaccine Industry; Dr. Brian Hooker’s Official Statement*

1 *Regarding Vaccine Whistleblower William Thompson; CDC & FDA Committee Members*  
 2 *Have Financial Conflict of Interest with Vaccine Pharmaceuticals; OSC Calls for Further*  
 3 *Review of Whistleblower Disclosures on Zika Testing; CDC Spider Letter; CDC: Off Center;*  
 4 *Real-Life Data Show that the CDC Vaccine Schedule is Causing Harm; Don't Fall for the*  
 5 *CDC's Outlandish Lies About Thimerosal; CDC and WHO Corrupt Financial Entanglements*  
 6 *with the Vaccine Industry; CDC Lies About, and Media Repeats, Risk of Dying from Measles;*  
 7 *CDC's 'Universal' Recommendations for Infant Hep B Vaccine Not Based on Science, But*  
 8 *Assumptions; CDC's Infant Hep B Vaccine Recommendations—No Proof of Safety? See*  
 9 *Children's Health Defense* page, FACEBOOK,  
 10 <https://www.facebook.com/ChildrensHealthDefense> (last visited Aug. 15, 2020); *Knievel v.*  
 11 *ESPN*, 393 F.3d at 1076-77 (considering surrounding web pages under the incorporation by  
 12 reference doctrine). But, Plaintiff need not prove that the CDC is nefarious to make its point  
 13 that the views of CHD are being unfairly misrepresented and censored, to the detriment of the  
 14 public which deserves to be able to consider alternative views and make up its own mind.

15 341. **“This page posts about vaccines.”** Under California law, Plaintiff must show  
 16 that the false statement was made “of and concerning” them, either by name or by “clear  
 17 implication.” *Ferlauto v. Hamsher*, 74 Cal. App. 4th 1294, 1404 (1999). The specific reference  
 18 requirement is clearly met here as to CHD as an organization — by the text of the first  
 19 sentence (“*This page*”), by its large bolded font in the original, and, by its placement at the top  
 20 of CHD’s Facebook page. Libel exists where the words used can be shown to have referred to  
 21 Plaintiff, and to have been so understood. *Vedovi v. Watson & Taylor*, 104 Cal. App. 80, 83  
 22 (1930).

23 342. **“When it comes to health, everyone wants reliable, up-to-date information.”**  
 24 This sentence, read alone, is undoubtedly true. But, it tees up the falsity of the next sentence  
 25 with which it should be read. “The publication in question [...] must be read as a whole in  
 26 order to understand its import and the effect that it was calculated to have on the reader[.]”  
 27 *Selleck v. Globe International, Inc.*, 166 Cal. App. 3d 1123, 1131 (1985). The court applies a  
 28 “totality of the circumstances test” and “puts itself in place of an average reader [to] determine

1 the natural and probable effect of the statement.” *Bently Reserve LP v. Papaliolios*, 218 Cal.  
2 App. 4th 418, 427-28 (2013).

3 343. Merriam-Webster’s Dictionary defines the adjective “reliable” as “suitable or fit  
4 to be relied on; dependable.” *Reliable, Merriam-Webster.com*, [https://www.merriam-](https://www.merriam-webster.com/dictionary/reliable)  
5 [webster.com/dictionary/reliable](https://www.merriam-webster.com/dictionary/reliable) (last visited Aug. 15, 2020). Merriam-Webster’s Thesaurus  
6 lists synonyms for “reliable” to include “true, trustable, trusty, trustworthy, tried-and-true,  
7 good, responsible, safe, secure, sure.” *Reliable, Merriam-Webster.com*, Thesaurus,  
8 <https://www.merriam-webster.com/thesaurus/reliable> (last visited Aug. 15, 2020). Merriam-  
9 Webster’s Dictionary defines the adjective “up-to-date” as “(1) extending up to the present  
10 time; including the latest information. (2) abreast of the times; modern.” *Up-to-date, Merriam-*  
11 [Webster.com](https://www.merriam-webster.com/dictionary/up-to-date), <https://www.merriam-webster.com/dictionary/up-to-date> (last visited Aug. 15,  
12 2020). Merriam-Webster’s Thesaurus adds the definition “having information especially as a  
13 result of study or experience,” and lists synonyms for “up-to-date” which include  
14 “contemporary, current, modern, new, present-day, state-of-the-art, up-to-the-minute,  
15 informed, knowledgeable, well-informed.” *Up-to-date, Merriam-Webster.com*, Thesaurus,  
16 <https://www.merriam-webster.com/thesaurus/up-to-date> (last visited Aug. 15, 2020).

17 344. **“The Centers for Disease Control (CDC) has information that can help**  
18 **answer questions you may have about vaccines.”** Read with the preceding “reliable, up-to-  
19 date information” sentence to which it refers, and which together make its essential point, this  
20 sentence is false, and provably so -- as CHD has devoted much of its organizational life to  
21 showing. Read in context, the fair meaning of the sentence is to equate the word “information”  
22 with “reliable and up-to-date information” in the preceding sentence. Any reasonable reader  
23 would read the second “information” as shorthand for the first, and apply the “reliable, up-to-  
24 date” modifiers to both. What else, if not the “reliable and up-to-date information,” which  
25 Facebook says “everyone wants,” and which Facebook claims to be in a position to discern and  
26 provide with respect to vaccines? By its terms of service and community standards  
27 incorporated therewith, Facebook purports to be viewpoint-neutral except for limited instances  
28 of speech, which poses an “imminent threat of harm or violence.” Facebook’s pretense of

1 neutrality only compounds the reputational harm of its libel to Plaintiff. *See Masson v. New*  
2 *Yorker Magazine, Inc.*, 501 U.S. 496, 513 (1991) (New Yorker article which purported to be  
3 non-fiction was actionable because it gave the reader no clue that fabricated quotations were  
4 being used other than to allow the subject to speak for himself, which made them all the more  
5 damning).

6 345. **“Go to CDC.gov.”** Once more, the bolded and larger font size underscore that  
7 Facebook has singled out Plaintiff’s Facebook page for negative comment. The very existence  
8 of Facebook’s Warning Label on CHD’s page, and its redirection link “Go to CDC.gov,” are  
9 well understood as a “black mark” on that page among Facebook’s community of 2 billion  
10 users worldwide. Facebook’s highly-sporadic and selective exercise of its content-regulation  
11 authority as community moderator underscores its audience’s reasonable expectation that, in  
12 this context, a Facebook warning label on a third party’s page conveys an objective fact, not an  
13 expression of Facebook’s opinion, or an undisclosed commercial interest and ambition. *See*  
14 *Knievel v. ESPN*, 393 F.3d at 1075 (analyzing the format, structure, the language used, and the  
15 expectations that the target audience would have with regard to the type of information that  
16 might be found in the context, and noting that such context might be “paramount,” if not  
17 “dispositive”). For any reasonable reader, the “gist” or “sting” of Facebook’s “warning label”  
18 misrepresentation is its unsubtle insinuation *as fact* that, in contrast with the CDC’s  
19 information, **“what you see below on CHD’s page is *not* reliable, up-to-date information.**  
20 **Rely on the CDC instead.”** That is the only reasonable interpretation of Facebook’s Warning  
21 Label in light of its specific wording, prominent placement on CHD’s page, and the context of  
22 the CHD-created content on that page which features CHD’s scathing factual exposé of the  
23 CDC.

24 346. Facebook’s warning label on CHD’s page states a classic imputation of CHD’s  
25 dishonesty in dealing with its users, and a lack of integrity about its trade in the sphere in  
26 which it operates. That is how third-party readers understand it and, as such, it is falsely  
27 disparaging under the Lanham Act. Defendants are liable for what is insinuated, as well as for  
28 what is stated explicitly. *MacLeod v. Tribune Publishing Co.*, 52 Cal. 2d 536, 547 (1959).

1 Further, the determinative question is whether the ‘gist or sting’ of the statement is true or  
2 false, benign or defamatory, in substance. *Ringler Associates, Inc. v. Maryland Casualty Co.*,  
3 80 Cal. App. 4th 1165, 1182 (2000). A statement is deemed false if it “would have a different  
4 effect on the mind of the reader (or viewer) from that which the pleaded truth would have  
5 produced.” *Metabolife Int’l Inc. v. Wornick*, 264 F.3d 832, 849 (9th Cir. 2001) (*quoting*  
6 *Masson v. New Yorker Magazine, Inc.*, 501 U.S. at 517). Facebook’s warning label is  
7 “reasonably susceptible of an interpretation which implies a provably false assertion of fact,”  
8 *Couch v. San Juan Unified Sch. Dist.*, 33 Cal. App. 4th 1491 (1995); *Dodds v. Am. Broad. Co.*,  
9 145 F.3d 1053, 1063-64 (9th Cir. 1998). Here, the conclusion that CHD’s vaccine-related  
10 information is “unreliable and out-of-date” is sufficiently factual to be verifiable as true or  
11 false, *Milkovich v. Lorain Journal Co.*, 497 U.S. at 19, and indeed, it is false. *See also*  
12 *Manufactured Home Communities, Inc. v. County of San Diego*, 544 F.3d 959, 964 (9th Cir.  
13 2008) (defendant's statements that accused Plaintiff of lying without expressly disclosing a  
14 factual basis for the statements could be defamatory).

15 347. An old, but instructive case is *Rosenberg v. J.C. Penney Co.*, 30 Cal. App. 2d  
16 609 (1939). There, in 1924, the Rosenberg retail store sold the Healdsburg high school’s gym  
17 uniform, and a competitor across the street, the J.C. Penney Co. department store, wanted that  
18 business. So, a J.C. Penney manager created a window display that purported to compare  
19 samples of the respective stores’ gym shorts. The comparison included a placard with these  
20 comments: “Decide for Yourself. This Garment is either a poorly-made second or prison-made  
21 merchandise. Seams crooked. Slovenly made. Long Loose Stitches.” *Id.* at 613. On appeal, the  
22 California court affirmed that the window display placard was libelous per se because it was an  
23 imputation against the honesty and integrity of the merchant in the sale of its goods, and  
24 essentially accused it of fraud and deception, and unfair dealing with its customers. “The  
25 reputation of a tradesman in the sphere in which he earns his living is a valuable asset and is  
26 entitled to the protection of the law.” *Id.* at 620.

27 348. Now fast forward nearly a century, and recast that small town America window  
28 display libel by a giant and overreaching department store against its small cross-street rival to

1 today's world where the libel is propagated online by a comparable Goliath on a global scale.  
2 That is, essentially, what Facebook has done. Like J.C. Penney's window display, Facebook's  
3 warning label on CHD's page draws an invidious comparison between the quality of the  
4 health-related information offered by two rivals, the CDC and CHD, for the public's trust and  
5 attention. As alleged *infra*, Facebook has "skin in the game" because its controlling individual  
6 and his related entities are in the vaccine development business, competing with CHD's  
7 educational materials, emphasizing informed consent and safety. Like the Rosenberg retail  
8 store, the "business integrity of the company [CHD] is at stake." *Rosenberg v. J.C. Penney Co.*,  
9 30 Cal. App. 2d at 627.

10 349. Facebook's warning label implies a provably false assertion of fact, whether or  
11 not the words used are termed "fact" or "opinion." *Milkovich*, 497 U.S. at 18-19. The "gist" or  
12 "sting" of the disparagement — **that CHD's page conveys "unreliable and out-of-date**  
13 **information"** — is objectively false in light of the totality of the circumstances: CHD's page-  
14 content and the fact-checking process by which it creates and curates such content,  
15 distinguishes between known and unknown scientific facts, and labels expressions of opinion  
16 on its page as such. *See supra*. Certainly the pleaded truth — that CHD's page in fact contains  
17 "reliable and up-to-date information" while CDC's page does not — would produce an effect  
18 on the mind of the reader 180-degrees different than the effect produced by Facebook's  
19 warning label. *Masson*, 501 U.S. at 516-17. Third-party readers understood Facebook's  
20 warning label as Facebook intended, namely as a statement of fact that the information on  
21 CHD's Facebook page is neither reliable nor up-to-date. *See, e.g., Slaughter v. Friedman*, 32  
22 Cal.3d 149, 154 (1982) (accusations of "excessive" fees or "unnecessary" work by professional  
23 dental plan administrators carry a "ring of authenticity" and reasonably might be understood as  
24 being based on fact). Facebook has sought after, and must answer for, its own "ring of  
25 authenticity."

26 350. On March 4, 2019, in response to Representative Schiff's letter to Facebook,  
27 CHD sent Facebook a nine-page single-spaced letter providing CHD's detailed summary of the  
28 known and unknown scientific facts, and its most pressing concerns, with respect to vaccine

1 safety. See Exhibit A. Thus, Facebook was on notice that CHD was not promoting  
2 “misinformation” of any sort.

3 351. Yet, just three days later, on March 7, 2019, Facebook announced in its online  
4 press release that it would take steps to eliminate “vaccine misinformation” on Facebook by  
5 reducing its distribution and providing people with “authoritative information” on the topic,  
6 and then Facebook proceeded to falsely disparage CHD. *See, e.g., Masson*, 501 U.S. at 521  
7 (unlike “hot news” journalist, defendant author had both time and practical ability to fact-check  
8 tapes in her possession). Here, with CHD’s detailed presentation in hand, Facebook had  
9 “obvious reasons to doubt the veracity” of its warning label, but instead engaged in  
10 “purposeful avoidance of the truth.” *St. Amant v. Thompson*, 390 U.S. 727, 732 (1968); *Harte-*  
11 *Hanks Communication, Inc. v. Connaughton*, 491 U.S. 657. By reasonable inference, Facebook  
12 conducted no investigation whatsoever to confirm or dispel the material facts in CHD’s March  
13 4, 2019 letter, and Facebook intended to convey or, at the very least, endorsed the defamatory  
14 false innuendo. *Newton v. National Broadcasting Co., Inc.*, 930 F.2d 662, 681 (9th Cir. 1990).  
15 Facebook and Zuckerberg’s apparent failure to respond in writing to the March 4, 2019 letter,  
16 much less to even attempt to refute the many points made in that letter (which was addressed to  
17 Zuckerberg personally), reveals their reckless disregard for the truth in this matter, and that  
18 their campaign against CHD was infected with legal malice. To the extent that there was a  
19 failure to deliver the March 4 letter to Zuckerberg (although we are aware of no evidence that  
20 he did not receive it), such a failure, and Facebook and Zuckerberg’s ultimate failure to  
21 investigate the points raised in the letter and respond to them, also evinces a reckless disregard  
22 for truth and underscores that Facebook and Zuckerberg’s conduct reflects the character of  
23 legal malice.

24 352. *Philadelphia Newspapers, Inc. v. Hepps*, 475 U.S. 767 (1986) left open the  
25 question whether non-media publisher defendants such as Facebook and Zuckerberg are  
26 entitled to the same level of protection that media publisher defendants receive under the *New*  
27 *York Times* standard. Either way, these defendants acted with the requisite mental state to be  
28 liable for defamation measured by the “actual malice” standard that they subjectively doubted



1 the veracity of the statement or purposely avoided the truth, or by the negligence standard  
2 applicable to non-media defendants. *Dodds*, 145 F.3d at 1060; *St. Amant v. Thompson*, 390  
3 U.S. at 731 (stating test as whether defendant “in fact entertained serious doubts as to the truth  
4 of [his] publication”); *Garrison v. Louisiana*, 379 U.S. at 74 (whether defendant published the  
5 material while subjectively possessing a “high degree of awareness of the probable falsity of  
6 the publication”).

7 353. “Actual malice” can be shown by, *inter alia*, “subsequent defamations [and  
8 other] statements of defendants, circumstances indicating the existence of rivalry, ill will, or  
9 hostility between the parties, [and] facts tending to show a reckless disregard of the Plaintiffs’  
10 right[,]” *Herbert v. Lando*, 441 U.S. 153, 164 n.12 (1979) (*quoting* 50 Am. Jur. 2d, § 455), all  
11 of which are strongly present. In particular, defendants harbor an adverse motive to profit from  
12 their unfettered development of vaccines and 5G networks, in furtherance of which they have  
13 committed multiple other predicate acts of misrepresentation amounting to wire-fraud for  
14 purposes of RICO enterprise liability. And, crucially, they knew their published warning label  
15 was false or acted with reckless disregard to its falsity.

16 354. Zuckerberg’s public statements to TV audiences, to Congress, to his investors,  
17 and to Facebook users are replete with boasts that he works with government officials to  
18 identify and suppress “vaccine misinformation,” and to redirect users to the government’s  
19 authoritative “information,” and that his “understanding of the scientific consensus is that it’s  
20 important that people get their vaccines.” He has also publicly boasted of his “outside interests  
21 in health.” The three-day interval (March 4 to 7, 2019) from CHD’s nine-page letter to  
22 Facebook’s press release announcing its campaign suggests that Zuckerberg willfully chose not  
23 to test his “understanding” against actual facts, as brought to his attention by CHD.

24 355. Zuckerberg has personally authorized, directed and participated in Facebook’s  
25 campaign of false advertising and censorship directed against CHD and its website content.  
26 Zuckerberg holds, and has long held, a position of predominance at Facebook. He is the  
27 ultimate decision maker at the company. Zuckerberg is a co-founder of Facebook, Inc. and, at  
28 all times relevant to the claims set forth herein, has served and functioned as Facebook’s

1 Chairman, Chief Executive Officer, and controlling shareholder. According to the company's  
2 2018 Proxy Statement, Zuckerberg controls 53.3% of Facebook's total voting shares. He  
3 possesses the sole power to elect or remove any director from Facebook's Board.

4 356. Zuckerberg's personal involvement in directing the operations and setting and  
5 implementing the policies of Facebook has only increased over the years. As one report has  
6 noted: "[After the 2016 election] Mr. Zuckerberg resolved to take control of the global  
7 superpower in which he already dominated the voting. [In July 2018,] Mr. Zuckerberg called a  
8 meeting with his top lieutenants. ... Mr. Zuckerberg said he would be making more decisions  
9 on his own, based on his instincts and vision for the company. Mr. Zuckerberg also began to  
10 participate more directly in meetings that had previously been Ms. Sandberg's domain – from  
11 the nitty-gritty of taking down disinformation campaigns, to winding philosophical discussions  
12 on how Facebook ought to handle political ads. ... Other board disagreements, specifically  
13 around political advertising and the spread of misinformation, always ended with Mr.  
14 Zuckerberg's point of view winning out." Mike Isaac, Sheera Frenkel & Celia Kang, *Now*  
15 *More Than Ever, Facebook Is a 'Mark Zuckerberg Production, supra,'* NEW YORK TIMES,  
16 <https://www.nytimes.com/2020/05/16/technology/zuckerberg-facebook-coronavirus.html>  
17 (emphasis added).

18 357. As is well known, Zuckerberg is the public face of his company. He has testified  
19 many times before Congress, including with regard to Facebook's censorship policies  
20 generally and its approach to vaccine information posted by users in particular. He is well  
21 aware of the vaccine issue and is directly concerned with what he regards as Facebook's role in  
22 limiting the dissemination of material that he deems "misinformation." As Zuckerberg noted in  
23 response to a question from Representative Posey (R-FL) during a Congressional hearing  
24 conducted on October 22, 2019: "[W]e hear consistently from our community that people want  
25 us to stop the spread of misinformation. So what we do is try to focus on misinformation. ... If  
26 someone wants to post anti-vaccination content or they want to join a group where people are  
27 discussing that, we don't stop them from doing that. But[...] we don't go out of our way to  
28 make sure our group recommendation systems show people or encourage people to join those

1 groups. We discourage that.” *Facebook CEO Testimony Before House Financial Services*  
2 *Committee* [Video], C-SPAN (Oct.23, 2019),  
3 [https://www.c-span.org/video/?465293-1/facebook-ceo-testimony-house-financial-services-](https://www.c-span.org/video/?465293-1/facebook-ceo-testimony-house-financial-services-committee)  
4 [committee](https://www.c-span.org/video/?465293-1/facebook-ceo-testimony-house-financial-services-committee) (emphasis added). The above testimony is arguably self-contradictory and  
5 disingenuous, and certainly understates the extraordinary aggressiveness of Zuckerberg and  
6 Facebook’s censorship campaign against CHD (and, as a consequence, against the potential  
7 viewers who are deprived of access to the material and information that CHD wishes to  
8 provide concerning the possible dangers posed by vaccines). The point here, however, is that  
9 the above testimony clearly indicates Zuckerberg’s direct interest and involvement in  
10 Facebook’s effort to censor what he regards as “anti-vaccination” content, and that Zuckerberg  
11 has personally authorized, directed and participated in the false advertising campaign intended  
12 and designed to implement that effort.

13 358. As noted *supra*, on February 14, 2019 Congressman Schiff addressed a letter to  
14 Zuckerberg pointedly specifying that Facebook take steps, including the implementation of  
15 algorithms, to identify, censor and remove supposed “vaccine misinformation.” In his letter’s  
16 conclusion, Mr. Schiff wrote that he encouraged Zuckerberg “to consider what additional steps  
17 you can take to address this growing problem. As more Americans rely on your services as  
18 their primary source of information, it is vital that you take that responsibility with the  
19 seriousness it requires, and nowhere more so than in matters of public health and children’s  
20 health. Thank you for your attention to this important topic.” *Schiff Sends Letter to Google,*  
21 *Facebook Regarding Anti-Vaccine Misinformation, supra*, Press Releases, CONGRESSMAN  
22 ADAM SCHIFF, [https://schiff.house.gov/news/press-releases/schiff-sends-letter-to-google-](https://schiff.house.gov/news/press-releases/schiff-sends-letter-to-google-facebook-regarding-anti-vaccine-misinformation)  
23 [facebook-regarding-anti-vaccine-misinformation](https://schiff.house.gov/news/press-releases/schiff-sends-letter-to-google-facebook-regarding-anti-vaccine-misinformation). By its terms, this letter is addressed  
24 personally to Mark Zuckerberg, and its underlying assumption is that Zuckerberg personally  
25 directs and is responsible for the conduct of the company — indeed, that he is the company.

26 359. Whether Zuckerberg ever responded in writing to Rep. Schiff’s letter is, at  
27 present, information that is exclusively within Defendants’ knowledge, disclosure of which  
28 must await discovery in this matter. Plaintiff is not aware of any evidence indicating that

1 Zuckerberg disclaimed interest in the vaccine issue, or that he disclaimed or had delegated the  
2 personal responsibility for the censorship of so-called vaccine “misinformation” which Mr.  
3 Schiff understood as residing with Zuckerberg. On the contrary, Zuckerberg personally met  
4 with Mr. Schiff after the issuance of Mr. Schiff’s letter to discuss Facebook’s response to  
5 Schiff’s demands. Zuckerberg’s personal interaction with Rep. Schiff alone indicates  
6 Zuckerberg’s direct involvement with Facebook’s response to the issue posed by so-called  
7 “anti-vaccine” information. It is evident that Schiff himself understood that when he was  
8 communicating on this subject with Zuckerberg, he was communicating with the figure at  
9 Facebook who had the ultimate responsibility and the ultimate say in directing Facebook’s  
10 response.

11 360. Reflected in Rep. Schiff’s communications with Zuckerberg, and  
12 communications from other powerful office holders, was an implicit — and sometimes very  
13 explicit — threat that if Facebook failed to censor vaccine “misinformation,” Facebook would  
14 be subject to regulatory action, including the withdrawal of the CDA Section 230 so essential  
15 to its business model. Thus, in June 2019, Rep. Schiff stated publicly, as Chairman of the  
16 House Intelligence Committee, that Congress could or should “make changes” to the law that  
17 currently does not hold social media companies liable for third party content on their  
18 platforms. See, e.g., *Hearings by Congress on “deepfakes” and artificial intelligence* [Video],  
19 GUARDIAN NEWS (June 13, 2019), <https://www.youtube.com/watch?v=1ArPEDS0GTA>.  
20 Schiff emphasized that “if the social media companies can’t exercise the proper standard of  
21 care when it comes to a whole variety of fraudulent or illicit comment, then we have to think  
22 about whether that immunity still makes sense.” K. Waddell, *A new attack on social media’s*  
23 *immunity, supra*, AXIOS, [https://www.axios.com/social-media-immunity-section-230-](https://www.axios.com/social-media-immunity-section-230-f15ac071-32e9-4e33-81e6-4c7ebadaea5e.html)  
24 [f15ac071-32e9-4e33-81e6-4c7ebadaea5e.html](https://www.axios.com/social-media-immunity-section-230-f15ac071-32e9-4e33-81e6-4c7ebadaea5e.html). Similar sentiments were echoed recently in  
25 even more pointed and threatening remarks made by Senator Elizabeth Warren specifically  
26 directed to Facebook: “During the global pandemic, Facebook is looking the other way while  
27 disinformation about the coronavirus goes viral on its platform – a direct threat to the health  
28 and safety of millions of people. No company should be too big to be held accountable for

1 distorting facts and spreading falsehoods, especially during a public health crisis.” Alexandra  
2 Kelley, *Zuckerberg says Facebook won’t remove anti-vaccine posts amid coronavirus*  
3 *pandemic*, THE HILL (Sept. 10, 2020), [https://thehill.com/changing-america/well-](https://thehill.com/changing-america/well-being/prevention-cures/515844-mark-zuckerberg-says-facebook-wont-remove-anti)  
4 [being/prevention-cures/515844-mark-zuckerberg-says-facebook-wont-remove-anti](https://thehill.com/changing-america/well-being/prevention-cures/515844-mark-zuckerberg-says-facebook-wont-remove-anti).

5 361. Zuckerberg is unlikely to have been unaware of the above remarks made publicly  
6 by two prominent and powerful politicians, and the implications that such statements carry for  
7 his company. That awareness is all the more reason that Zuckerberg would have been involved  
8 directly and personally in addressing the issues raised by Rep. Schiff and Senator Warren. The  
9 false advertising and censorship campaign against CHD is part of Zuckerberg’s effort to  
10 appease these and other government officials, and to stave off threatened government  
11 regulation by complying with the demand that Facebook engage in severe censorship of so-  
12 called “anti-vaccine misinformation.”

13 362. While discovery may be necessary to demonstrate the full nature and extent of  
14 Zuckerberg’s personal involvement in, and authorization and direction of, the false advertising  
15 and censorship campaign against CHD, his own statements and his interactions and  
16 communications with Rep. Schiff indicate his direct personal interest in the vaccine issue and  
17 his specific interest in ensuring that that issue is handled to the advantage of Facebook – i.e., in  
18 a manner that does not jeopardize its business model, its relationship with its pharmaceutical  
19 advertisers, or its regulatory immunity. Given Zuckerberg’s position of predominance within  
20 Facebook, he unquestionably has possessed the authority and capacity at all relevant times to  
21 authorize, direct and actively participate in the illegal false advertising and fraud campaign  
22 against CHD described herein.

23 363. Defendants have exclusive possession, custody and control of other evidence of  
24 falsity and/or Zuckerberg’s actual malice, e.g., private records and testimony concerning when,  
25 with whom, how, and why Zuckerberg came to his “understanding” concerning “vaccine  
26 misinformation,” which he confidently holds at “near 100%” certainty; his actual knowledge or  
27 serious doubt of the “warning label’s” falsity; and what “deliberative process,” if any,  
28

1 occurred. *See, e.g., Metabolife*, 264 F.3d at 846 (ordering discovery of information within  
2 defendants' exclusive control which may be highly probative of falsity).

3 364. Plaintiff has suffered general and special damages as enumerated below. It is  
4 hornbook law that in measuring damages, the Court may consider Facebook's influence and  
5 that of Plaintiff, and Facebook's global footprint, "for the greater the circulation, the greater  
6 the wrong, and the more reason why greater care should be exercised in the publication[.]"  
7 *Graybill v. De Young*, 140 Cal. 323, 330 (1902).

8 365. No retraction demand was made nor required prior to filing this action under  
9 California Civil Code section 48a, subdivision (a), because Facebook is not a "daily or weekly  
10 news publication" as that term is defined in subsection (d)(5) of that statute.

11 366. Plaintiff is entitled to injunctive relief and to recover their damages, including for  
12 reputational harm and loss of business goodwill and revenue, and punitive damages resulting  
13 from defendants' intentional acts of false designation and false promotion under the Lanham  
14 Act.

### THIRD CAUSE OF ACTION

#### (RICO — WIRE FRAUD VIOLATIONS)

#### **Defendants Facebook, Zuckerberg, Science Feedback, Poynter, and Does 1-20**

17 367. Paragraphs 1 through 223 are realleged and incorporated as if fully set forth  
18 herein.  
19

20 368. 18 U.S.C. § 1962(c) of the Racketeer Influenced and Corrupt Organizations Act  
21 ("RICO") makes it illegal for any person associated with an alleged racketeering enterprise "to  
22 conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through  
23 a pattern of racketeering activity." To state a civil claim for violations of 18 U.S.C. § 1962(c),  
24 as authorized by 18 U.S.C. § 1964(c), Plaintiff must allege: (1) conduct (2) of an enterprise  
25 (3) through a pattern (4) of racketeering activity (known as 'predicate acts') (5) that  
26 proximately causes (6) damages to the Plaintiff. Under 18 U.S.C. § 1961(1)(B), an act which is  
27 indictable under 18 U.S.C. § 1343 (relating to wire fraud) constitutes a predicate act. A  
28 "pattern" requires at least two related predicate acts that amount to or pose a threat of

1 continued criminal activity. A pattern does not require multiple schemes or multiple victims.  
2 “Enterprise,” as defined in 18 U.S.C. § 1961(4), broadly includes “any individual, partnership,  
3 corporation, association, or other legal entity, or any union or group of individuals associated  
4 in fact although not a legal entity.” The definition of a RICO enterprise has wide reach and is  
5 liberally construed to effectuate its remedial purpose. Here, the “persons” were Facebook,  
6 Zuckerberg, Science Feedback, Poynter, and Does 1 to 20, and the “enterprise” was that  
7 distinct group of persons who associated in fact (the Facebook “content management” team) as  
8 a coordinated group to effectuate their fraudulent scheme. *River City Mkts., Inc. v. Fleming*  
9 *Foods W., Inc.*, 960 F.2d 1458, 1461 (9th Cir. 1992) (concluding that “business relationship  
10 akin to a joint venture” was sufficient to establish an associated-in-fact RICO enterprise). As  
11 alleged *supra*, the Facebook content management team is an associated-in-fact enterprise in  
12 that it is an ongoing organization, formal or informal, and its various associates function as a  
13 continuing unit for a common purpose — to damage Plaintiff’s trade and property interests, to  
14 divert users of their page to the CDC, and to unjustly enrich themselves – by fraudulent means.

15 369. Defendants’ motive to profit from vaccine ads and product development and 5G  
16 networks unconstrained by negative publicity on their platform is highly probative of their  
17 intent to commit RICO wire-fraud, even though economic motive itself is not an element of the  
18 claim. *See, e.g., National Organization for Women, Inc. v. Schiedler*, 510 U.S. 249, 252 (1994)  
19 (rejecting the argument that “RICO requires proof either the racketeering enterprise or the  
20 predicate acts of racketeering were motivated by an economic purpose”). Essentially, the task  
21 of the Facebook fraud enterprise was to “clear the field” of CHD’s viewpoint for at least two  
22 market purposes that involve property or money, and lots of it: (1) brand protection for its  
23 vaccine maker ad buyers; and (2) its own future secured interest in vaccine patents and  
24 technical products and processes that depend on 5G-networks for their commercial viability.  
25 *See, e.g., United States v. Reyes*, 660 F.3d 454, 463 (9th Cir. 2011) (admitting evidence that  
26 defendant made money on a fraudulent scheme). In addition, as alleged *infra*, CHD’s followers  
27 and others relied upon defendant’s misrepresentation in ways that caused CHD to lose  
28 donations and membership fees, and injured CHD in its organizational trade.

1           370. For his part, in addition to all else, Zuckerberg was active in managing with his  
2 wife the day-to-day affairs of CZI and CZ-Biohub, and he exercised specific control over their  
3 vaccine development efforts. By his public statements, Zuckerberg was directly responsible for  
4 Facebook’s false and misleading statements about Plaintiff’s posted content. He participated in  
5 the ongoing associated-in-fact enterprise to develop his for-profit vaccine and 5G products  
6 unconstrained by any public scrutiny of that effort by Plaintiff.

7           371. Thus, all named defendants both inside Facebook’s formal structure (Zuckerberg,  
8 Does 1-10) and out (Science Feedback, Poynter, Does 1-20) aided in one or another aspect of  
9 their common fraud scheme: to label Plaintiff’s page “unreliable” and “out-of-date” and  
10 redirect users to the CDC; to label Plaintiff’s speech-content “False” when it is critical of  
11 vaccine or 5G network safety, accomplishing this censorship through the sham machinations of  
12 “content moderators” and “independent fact-checkers”; and to conceal their true purposes of  
13 profiting from vaccine manufacturer advertising and from their own vaccine and 5G network  
14 development, all of which would be adversely affected by Plaintiff’s ongoing public health-  
15 related speech.

16           372. The wire fraud statute, 18 U.S.C. § 1343, prohibits schemes to defraud or to  
17 obtain money or property, or cause financial loss to another, by means of “false or fraudulent  
18 pretenses, representations, or promises” if interstate wire or electronic communications are  
19 used to execute the scheme. The concept of a misrepresentation is broad, reaching not only  
20 false statements of fact, but also all of Facebook’s misleading half-truths, deceptive omissions,  
21 and knowingly false suggestions and promises as to the future. It is no defense that the  
22 intended victim was too gullible or, on the other hand, was too sophisticated to be taken in by  
23 the deception.

24           373. Defendants also committed wire-fraud acts constituting “interference with  
25 interstate commerce by threat” under 18 U.S.C. § 1951 in that the residual 0.05% of users who  
26 — notwithstanding Facebook’s false “warning label” and “fact-checks” — actually click-  
27 through to view Plaintiff’s actual content, suffer particular adverse consequences in terms of  
28 “sandboxing,” and other detriments to their accessible tools and information on Facebook. As



1 alleged *supra*, with respect to its active collaboration with government officers and agencies,  
2 Facebook took such actions under “color of official right.” 18 U.S.C. § 1951(2).

3 374. Plaintiff further alleges that defendants caused a domestic injury to their business  
4 or property. Where, as here, defendants specifically targeted their conduct at Plaintiff with the  
5 aim of thwarting Plaintiff’s rights in the United States, their activity results in a domestic  
6 injury.

7 375. Under Fed. R. Civ. P. 9(b), predicate acts of wire fraud must be alleged with  
8 specificity as to the contents of the communications, who was involved, where and when they  
9 took place, and why they were fraudulent. As alleged *supra*, defendants engaged in a scheme  
10 to defraud and made use of electronic and internet transmissions, and/or telephone calls, emails  
11 and texts in furtherance of the scheme, with the specific intent to deceive or defraud.

12 376. Plaintiff reasonably relied on defendant Facebook to adhere to its terms of  
13 service and community standards; not to engage in content creation on their Facebook pages;  
14 and not to mislead them, their advertising agency, or the world of third-party users as to the  
15 truth or falsity of content on their pages, or the visibility or reach of those pages. Plaintiff was  
16 misled by defendants, and even now is misled by Facebook’s product design as to which of  
17 CHD’s posts have been altered, demoted, or blocked from all third-party users. Moreover,  
18 Plaintiff was substantially injured by Facebook’s third-party users’ reliance on defendants’  
19 falsehoods. *See Bridge v. Phoenix Bond & Indem. Co.*, 553 U.S. at 658 (Plaintiff alleging a  
20 RICO violation may establish causation through first person or third-party reliance).

21 377. As a direct and proximate result of Defendants’ predicate acts in violation of 18  
22 U.S.C. §§ 1961(1)(B), 1962(c), Plaintiff has been and is continuing to be injured by harm to its  
23 specific property interests and financial losses, including by Defendants’ denial of any third-  
24 party donations to Plaintiff’s organization; their refusal to accept Plaintiff’s advertising  
25 purchases aimed at promoting such third-party donations; and their concerted efforts to reduce  
26 the visibility and reach of Plaintiff’s page, to reduce traffic to that page, and to reduce  
27 membership and speaker fees, and book and other sales that accrue to Plaintiff from such  
28 traffic (*see Xcentric Ventures, LLC v. Borodkin*, 798 F.3d 1201, 1203 (9th Cir. 2015) (loss of

1 specific business opportunities are recoverable under RICO)); and, finally, by publishing false  
2 and disparaging warning labels, and censoring of content, which have caused damage to  
3 Plaintiff's professional reputation and other valuable tangible and intangible property rights  
4 resulting in financial loss.

5 378. Defendants' actions have already injured Plaintiff, and will have the effect of  
6 further injuring them by damaging its trade reputation and goodwill, and those of their authors,  
7 diverting traffic from its site, and further curtailing its revenue and donations. *See, e.g.,*  
8 *Harmoni Int'l Spice, Inc. v. Hume*, 914 F.3d 648, 653 (9th Cir. 2019) (Plaintiff's lost sales as a  
9 direct result of the defendants' predicate acts cognizable under RICO); *Kaiser Foundation*  
10 *Health Plan, Inc. v. Pfizer, Inc. (In re Neurontin Mktg. & Sales Practices Litig.)*, 712 F.3d 21,  
11 29-30 (1st Cir. 2013) (statistical link between fraudulent marketing and off-label prescribing,  
12 without proof of any particular doctor-patient prescription, cognizable under RICO); *Mendoza*  
13 *v. Zirkle Fruit Co.*, 301 F.3d 1163, 1166 (9th Cir. 2002) (fraud on the market for labor, in that  
14 wages were depressed when defendants hired undocumented workers, cognizable under  
15 RICO); *United States v. Stockheimer*, 157 F.3d 1082, 1087-88 (7th Cir. 1998) ("An intent to  
16 defraud does not turn on personal gain ... all that matters is that [the defendant] intended to  
17 inflict a loss."); *Resolute Forest Prods. v. Greenpeace Int'l.*, 2019 U.S. Dist. LEXIS 10263,  
18 \*48 (N.D. Cal. 2019) (Plaintiff's lost revenue due to customers' reliance upon defendants'  
19 statements states a cognizable injury under RICO); *In re Chrysler-Dodge-Jeep EcoDiesel*  
20 *Mktg., Sales Practices & Prods. Liab. Litig.* 295 F. Supp. 3d 927, 961 (N.D. Cal. 2018)  
21 (statistical link between fraudulent marketing and Plaintiffs' overpayment may establish  
22 causation and injury to property). Facebook's diversion of users and removal of CHD's donate  
23 button caused a concrete RICO injury to CHD which had received \$28,000 in May 2019 alone  
24 through that function, before it was deactivated through one of Facebook's predicate wire-  
25 fraud acts. *See Resolute Forest Prods. id.* Facebook may or may not take CHD's money from  
26 those third-party users it defrauds, but that is hardly a defense. Facebook profits illicitly from  
27 its users whenever those users are misled by false fact-checks to click through and see new  
28 prompts and paid ads. Facebook also profits illicitly by solidifying its relationship with its

1 pharmaceutical advertisers with duplicitous methods. There is a far greater societal good in  
2 holding Facebook to its duty to be honest and truthful with its users than in letting Facebook  
3 off the hook if its deceptions do not directly take money from those users. After all, Facebook  
4 and Zuckerberg intended to destroy CHD's donations, membership fees, and business goodwill  
5 through coordinated acts of wire-fraud, even if they did not "pocket" CHD's losses themselves.  
6 CHD has been injured in its "business or property by reason of" defendants' RICO violations.  
7 18 U.S.C. § 1964(c).

8 379. Facebook disabled CHD's donate button in order to inflict a loss to CHD's  
9 revenue. Facebook's proffered rationale that it was because fact-checkers disputed CHD's  
10 posts was pretextual. (For example, defendants have not restored the fundraising tools even  
11 after removing fact-checked content entirely.) Facebook's use of interstate wires to remove  
12 CHD's fundraising tools was closely entwined with its fraudulent activity, and the removal  
13 contributed to the success of the scheme. "This connection is not to be measured by a technical  
14 standard; rather, what is required is that the mailings somehow contribute to the success of the  
15 scheme." *United States v. Halbert*, 640 F.2d 1000, 1009 (9th Cir. 1981). The mail and wire-  
16 fraud statutes are identical in this regard. Under 18 U.S.C. § 1964(c), Plaintiff seeks to recover  
17 threefold the damages they have sustained, and the cost of this suit, including an award of their  
18 reasonable attorneys' fees.

#### 19 **FOURTH CAUSE OF ACTION**

#### 20 **(DECLARATORY RELIEF)**

#### 21 **Defendants Facebook, Zuckerberg, Science Feedback, Poynter, and Does 1-20**

22 380. Paragraphs 1 through 329 are realleged and incorporated as if fully set forth  
23 herein.

24 381. The Declaratory Judgment Act, codified in 28 U.S.C. § 2201(a), provides in  
25 pertinent part that, "[i]n a case of actual controversy within its jurisdiction [] any court of the  
26 United States, upon the filing of an appropriate pleading, may declare the rights and other legal  
27 relations of any interested party seeking such declaration, whether or not further relief is or  
28

1 could be sought. Any such declaration shall have the force and effect of a final judgment or  
2 decree and shall be reviewable as such.”

3 382. An actual controversy has arisen and now exists between Plaintiff and  
4 defendants, concerning their respective rights and duties in that these defendants have  
5 published a false and misleading warning label on Plaintiff’s Facebook page; have fraudulently  
6 misrepresented to third-party users of the page that Plaintiff has posted and is posting “false  
7 [factual] information” in violation of their terms of service; and refuse to permit Plaintiff to  
8 solicit donations or purchase advertisements on the social media platform. Defendants have  
9 used deceptive means to limit the reach and visibility of CHD’s page. Finally, and within the  
10 past two months, Zuckerberg has threatened to ban, limit, warn, deboost, block or censor  
11 content regarding 5G network safety.

12 383. Under Ninth Circuit law, “intangible injuries, such as damage to ongoing  
13 recruitment efforts and goodwill, qualify as irreparable harm,” and weigh in favor of injunctive  
14 relief. *Continental Airlines, Inc. v. Intra Brokers, Inc.*, 24 F.3d 1099, 1105 (9th Cir. 1994);  
15 *Rent-A-Ctr., Inc. v. Canyon TV and Appliance Rental, Inc.*, 944 F.2d 597, 603 (9th Cir. 1991).  
16 Moreover, the “loss of First Amendment freedoms, for even minimal periods of time,  
17 unquestionably constitutes irreparable injury.” *Elrod v. Burns*, 427 U.S. 347, 373 (1976).  
18 Accordingly, Plaintiff has suffered – and continues to suffer – irreparable harm.

19 384. Plaintiff seeks a judicial determination of its rights and remedies and a  
20 declaration as to the parties’ respective rights and obligations with respect to CHD’s Facebook  
21 page. A judicial declaration is necessary and appropriate at this time so that Plaintiff may  
22 ascertain its rights to publish content on those pages without any interference, censorship,  
23 warning labels, “shadowbanning,” “deboosting,” “sandboxing,” or other deceptive means and  
24 methods employed by defendants, and with respect to other affirmative relief such as a public  
25 apology and entry on a First Amendment “shield list” by defendants.

26 385. As a result of Facebook’s unlawful conduct, Plaintiff has suffered substantial  
27 damages, including, but not limited to:  
28

- 1 a. Plaintiff was deprived of freedom of speech;
- 2 b. Plaintiff was foreclosed from future opportunities to reach subscribers on
- 3 Facebook;
- 4 c. Plaintiff lost status and prestige amongst Facebook followers, the general
- 5 public and the journalistic community;
- 6 d. Plaintiff suffered reputational harm;
- 7 e. Plaintiff lost third-party donations to Plaintiff's organization, speaker fees,
- 8 and book and other sales that would have accrued to Plaintiff but for
- 9 defendants' misconduct; and,
- 10 e. These injuries are continuing in nature requiring injunctive relief.

11 WHEREFORE, Plaintiff CHD demands judgment against Facebook Inc. for damages  
12 and injunctive relief as set forth below.

13  
14 **DEMAND FOR JURY TRIAL**

15 Plaintiff demands a trial by jury on all issues so triable.

16  
17 \* \* \* \* \*

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Children’s Health Defense respectfully requests:

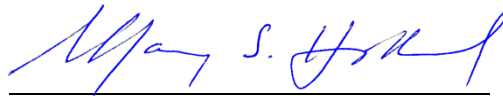
- A. Compensatory damages in an amount to be determined by the Jury, but not less than \$5,000,000.
- B. An award of treble damages to Plaintiff in an amount to be determined at trial.
- C. An injunction and declaratory judgment ordering Facebook to remove its warning labels and misclassification of all content on Plaintiff’s Facebook page, and to desist from any further warnings or classifications.
- D. An award of attorneys’ fees and costs to Plaintiff in an amount to be determined at trial.
- E. An award of punitive damages to Plaintiff in an amount to be determined at trial.
- F. An order requiring defendants to make a public retraction of their false statements.
- G. An award of such other and further relief as the Court may deem just and proper.

Date: November 13, 2020

Respectfully submitted,



ROBERT F. KENNEDY, JR.  
Founder and Chairman, Children’s Health Defense



MARY S. HOLLAND  
General Counsel, Children’s Health Defense



ROGER I. TEICH  
Counsel for Plaintiff  
Children’s Health Defense

**VERIFICATION**

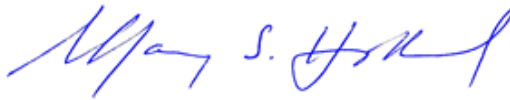
I, MARY HOLLAND, declare under penalty of perjury as follows:

1. I am the general counsel for Children’s Health Defense, a non-profit organization and Plaintiff in this action.

2. I have reviewed the foregoing Complaint and declare that the facts set out therein are true to the best of my knowledge and belief, except those matters stated as upon information and belief, which are true to the best of my belief.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct.

Executed this 13th day of November 2020, in Rockland County, New York.



MARY HOLLAND  
General Counsel, Children’s Health Defense

Attorney for Plaintiff  
Children’s Health Defense

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