

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN**

DONALD J. TRUMP FOR PRESIDENT,
INC.,

Plaintiff,

v.

NORTHLAND TELEVISION, LLC, d/b/a
WJFW-NBC,

Defendant

Case No. 20-cv-00385-WMC

and

PRIORITIES USA ACTION,

Intervenor Defendant.

COMPLAINT

Plaintiff, Donald J. Trump for President, Inc. (“plaintiff” or “the Trump Campaign”), for its Complaint against intervenor defendant, Priorities USA Action (“PUSA”), alleges as follows:

INTRODUCTION AND NATURE OF THE CASE

1. In the landmark case of *New York Times v. Sullivan*, which applied the First Amendment to common law defamation, the U.S. Supreme Court explained: “profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials.” *New York Times v. Sullivan*, 376 U.S. 254, 270 (1964). The First Amendment is intended to protect and nurture such wide-open exchange and public debate. It has its limits, however, as that same year, the Supreme Court explained that the First Amendment provides no haven for “known lies”:

“That speech is used as a tool for political ends does not automatically bring it under the protective mantle of the Constitution. For the use of the known lie as a tool is at once at odds with the premises of democratic government and with the orderly manner in which economic, social, or political change is to be effected. Calculated falsehood falls into that class of utterances which ‘are no essential part of any exposition of ideas ...’ Hence the knowingly false statement and the false statement made with reckless disregard of the truth [] do not enjoy constitutional protection.” *Garrison v. Louisiana*, 379 U.S. 64, 75 (1964) (emphasis added); *see Curtis Publ’g Co. v. Butts*, 388 U.S. 130, 150 (1967) (“[T]hat dissemination of information and opinion on questions of public concern is ordinarily a legitimate, protected and indeed cherished activity does not mean ... that one may in all respects carry on that activity exempt from sanctions designed to safeguard the legitimate interests of others.”).

Anderson v. The Augusta Chronicle, 585 S.E.2d 506, 513 (S.C. Ct. App. 2003) (emphasis added). This is a case involving a “knowingly false statement,” which is inherently harmful to democracy because it is intended to mislead the public about a subject of public policy.

2. This case concerns a false and defamatory statement in a television advertisement produced and sponsored by PUSA, a far-left Super PAC, that has been distributed via social media and broadcast through various media outlets, including television stations such as defendant Northland Television, LLC d/b/a WJFW-NBC (“WJFW-NBC”), thereby causing material harm to the reputation of Donald J. Trump’s principal campaign committee, Donald J. Trump for President, Inc. (“the Trump Campaign”). The advertisement, entitled “Exponential Threat,” and the substantially similar “One Week Later” (collectively, the “PUSA ads”), do not just contain a false and defamatory statement about the Trump Campaign—they are far more insidious and, ultimately, far more dangerous. The PUSA ads were produced through the use of digital technology by taking audio clips from Trump Campaign events and piecing those clips together to manufacture a blatantly false statement that was never said by candidate Trump: “The coronavirus, this is their new hoax.” (That statement is referenced herein as the “Manufactured Statement.”) The PUSA ads knowingly and intentionally misattributed the

Manufactured Statement to candidate Trump – a statement that PUSA knew that candidate Trump never said. PUSA knowingly and intentionally broadcast the PUSA ads containing the false and defamatory Manufactured Statement, which was produced through the use of technology that depicted a clearly false statement through audio and visual means. By including the Manufactured Statement as the opening line of the PUSA ads, which were widely broadcast on television stations and through other means throughout the country during a hotly contested campaign year and amidst a public health crisis, PUSA misled the public by representing that candidate Trump made a statement he never in fact made.

3. PUSA knowingly and intentionally produced and sponsored the PUSA ads containing the false and defamatory Manufactured Statement. The Trump Campaign sent cease and desist letters to various television stations that were broadcasting the PUSA ads to notify those stations about the fake, deceptive, and fraudulent manner in which the PUSA ads were produced and of the false and defamatory Manufactured Statement contained in the ads. The letters further informed the stations of the fact that multiple, independent, fact-checking organizations rightly concluded that the Manufactured Statement in the PUSA ads is clearly false because candidate Trump did not utter that statement.

4. PUSA obtained a copy of the Trump Campaign's cease and desist letters sent to TV stations concerning the PUSA ads. PUSA not only disregarded the thorough showing of the false and defamatory Manufactured Statement, it doubled down and expanded the distribution of the PUSA ads for broadcast more frequently and on more TV stations. Further, through its counsel, PUSA sent TV stations broadcasting the PUSA ads throughout the country a letter in response to the Trump Campaign's cease and desist letters. Upon information and belief, PUSA widely distributed its letter response to TV stations broadcasting the PUSA ads. Defendant WJFW-NBC and other TV stations nationwide continued to broadcast the PUSA ads and

accepted PUSA's purchase of advertising air time to broadcast the ads. Those TV stations apparently relied upon the assertions in PUSA's response letter claiming the truth of the Manufactured Statement in the PUSA ads.

5. PUSA's letter to TV stations in response to the Trump Campaign's cease and desist letters acknowledged the Trump Campaign's claim concerning the false Manufactured Statement in the PUSA ads. It conceded that the PUSA ads splice together audio clips to depict candidate Trump saying the Manufactured Statement: "The coronavirus, this is their new hoax." PUSA's letter told the TV stations that the Manufactured Statement was said by candidate Trump, as it was comprised of his "words." It asserted that the Manufactured Statement accurately attributed candidate Trump's words stated at a campaign rally. At the same time, however, PUSA also asserted, contrary to the plain audio and textual representation of the Manufactured Statement, that the PUSA ads "do[] not assert that Mr. Trump said the precise sentence, 'The coronavirus, this is their new hoax.' " Yet the opening line to the PUSA ads has audio of candidate Trump saying those words together, as a sentence. This is confirmed by the text running on the screen putting those words together, as a sentence. PUSA's response letter to the TV stations omits that fact in describing the PUSA ads to TV stations.

6. PUSA knew and intended that the PUSA ads contained the Manufactured Statement by candidate Trump using audio clips of his words and text representing that the statement was made as a sentence. This was verifiably false, and, was broadcast with knowledge or reckless disregard for the falsity of the Manufactured Statement.

7. The Manufactured Statement in the PUSA ads was knowingly and intentionally false and it was defamatory of the Trump Campaign. Such conduct finds no protection in the law. PUSA was aware that the Manufactured Statement depicted in the PUSA ads was not actually made by candidate Trump, and PUSA knowingly and intentionally produced the PUSA

ads to include a false statement manufactured through the use of digital technology. PUSA continues to make the advertisements containing the Manufactured Statement publicly available and is liable for the false and defamatory content of the PUSA ads.

PARTIES

8. The Trump Campaign is an authorized committee of presidential candidate Donald J. Trump (“candidate Trump”) as defined by 11 CFR § 9032.1(a), which is incorporated in Virginia and has its principal place of business in New York. The Trump Campaign has operated President Trump’s reelection campaign for the 2020 Presidential Election since January 20, 2017.

9. Priorities USA Action’s principal place of business is in Washington, D.C. and it is a corporation incorporated in the District of Columbia. PUSA is a federal political action committee (“PAC”) with its headquarters at 1030 15th Street NW, Suite 950 West, Washington, D.C. 20005. According to PUSA, a core part of its mission to “[t]o help Democrats defeat Trump in 2020.” *See* PUSA, “Research Priorities” (last visited June 15, 2020) available at <https://priorities.org/issue/research-priorities/>

JURISDICTION AND VENUE

10. PUSA moved to intervene in this action pursuant to Rule 24 of the Federal Rules of Civil Procedure. It therefore has voluntarily subjected itself to the jurisdiction of this Court.

11. Venue in this District is proper because the PUSA ads containing the false and defamatory Manufactured Statement concerning the Trump Campaign were broadcast on WJFW-NBC, a television station airing in this judicial district.

BACKGROUND FACTS

12. Donald J. Trump is the Trump Campaign’s candidate for the 2020 Presidential Election.

13. Pursuant to 52 U.S.C. § 30102(e)(1) and (3), candidate Trump has established “Donald J. Trump for President, Inc.” as his principal campaign committee.

14. The Trump Campaign is responsible for, among other things, coordinating and organizing political and fundraising appearances, creating and/or purchasing political advertising on behalf of the candidate, collecting contributions for the candidate and reporting them to federal regulators as required by law, and making expenditures on behalf of the candidate, each and all for the sole purpose of re-electing its candidate as President of the United States.

15. Candidate Trump is one of many people authorized to speak and who does speak on behalf of the Trump Campaign. The purported statements of any authorized speaker alleged to have been made on behalf of the Trump Campaign impact the Trump Campaign.

16. The Manufactured Statement depicted in the PUSA ads was falsely represented as being made by the Trump Campaign’s candidate. Defendants assert that the Manufactured Statement was made by candidate Trump at a campaign rally for the Trump Campaign in Charleston, South Carolina.

17. PUSA created the PUSA ads in order to affect voting behavior of members of the voting public and influence the 2020 presidential election as defeating candidate Trump is a core tenant of its mission. *See* PUSA, “Research Priorities” (last visited June 15, 2020) available at <https://priorities.org/issue/research-priorities/>.

18. The Trump Campaign depends upon support from the public, and the Manufactured Statement in the PUSA ads tended to and tends to interfere with the Trump Campaign’s activities by prejudicing it in the public’s estimation.

19. The Trump Campaign’s effort to acquire votes necessarily rests on its and its candidate’s reputation.

20. The public activities and statements made by the Trump Campaign's candidate while on the campaign trail are a material activity of the Trump Campaign, reflect upon the Trump Campaign, impact the candidate's chances for reelection, and thereby directly affect the fundamental mission and purpose of the Trump Campaign. Those communications express to voters information upon which voters may consider and make the determination whether to cast their vote for the Trump Campaign's candidate.

The "Exponential Threat" and "One Week Later" Advertisements

21. PUSA is a federal political action committee subject to regulation by the Federal Elections Commission ("FEC").

22. According to PUSA, part of its mission to "[t]o help Democrats defeat Trump in 2020." See PUSA, "Research Priorities" (last visited June 15, 2020) available at <https://priorities.org/issue/research-priorities/>.

23. On March 23, 2020, PUSA announced the launch of an initial \$6 million television and digital advertising buy which included "Exponential Threat," and along with "One Week Later," are the PUSA ads at issue here. The Exponential Threat advertisement was intended to run in Florida, Michigan, Pennsylvania, and Wisconsin. See PUSA, "Priorities USA Action Launches Initial \$6 Million TV & Digital Ad Buy Holding Trump Accountable for Failing Coronavirus Response" (Mar. 23, 2020) available at <https://priorities.org/press/priorities-usa-action-launches-initial-6-million-tv-digital-ad-buy-holding-trump-accountable-for-failing-coronavirus-response/>. A true and correct copy of that press release is attached hereto as Exhibit 1.

24. PUSA's March 23, 2020 press release (Exhibit 1) contains a link to the "Exponential Threat" advertisement, at

<https://www.youtube.com/watch?v=bkMwvmJLnc0&feature=youtu.be> (last visited June 15, 2010).

25. The “Exponential Threat” advertisement of PUSA takes audio clips of candidate Trump and pieces them together to manufacture a false statement that was not made by the President: “The coronavirus, this is their new hoax.” (As noted above, that statement is referred to herein as “Manufactured Statement.”) *See* PUSA, “Exponential Threat” available at <https://www.youtube.com/watch?v=bkMwvmJLnc0&feature=youtu.be> (last visited June 15, 2010).

26. True and correct copies of screen shots of the Manufactured Statement in the “Exponential Threat” advertisement are attached hereto as Exhibit 2.

27. On March 30, 2020, PUSA released an updated version of the “Exponential Threat” advertisement entitled “One Week Later,” which contains the same Manufactured Statement, “The coronavirus, this is their new hoax.”, and acknowledged that it was aware of the Trump Campaign’s claim that the advertisement was false and misleading. *See* PUSA, “One Week Later, Priorities USA Action Releases Updated Version of Ad Trump Tried to Block” (Mar. 30, 2020) available at <https://priorities.org/press/one-week-later-priorities-usa-action-releases-updated-version-of-ad-trump-tried-to-block/>. A true and correct copy of that press release is attached hereto as Exhibit 3.

28. PUSA’s March 30, 2020 press release (Exhibit 3) contains a link to the “One Week Later” advertisement, at <https://www.youtube.com/watch?v=hl6T2XxNtM0&feature=youtu.be> (last visited June 15, 2010).

29. True and correct copies of screen shots of the Manufactured Statement in the “One Week Later” advertisement are attached hereto as Exhibit 4.

30. The PUSA ads were broadcast on TV stations throughout the country numerous times between March 24, 2020 and April 6, 2020. For example, WJFW-NBC broadcast the PUSA ads approximately forty-three times on WJFW-NBC between March 24 and April 6, 2020.

31. The PUSA ads (Exponential Threat and One Week Later) take an audio clip from a speech given by candidate Trump on February 28, 2020 at a campaign rally in Charleston, South Carolina (the “South Carolina Campaign Speech”) and stitches it together with other audio of candidate Trump saying the word “the coronavirus” to create the Manufactured Statement. *See* President Donald J. Trump, Remarks at a Campaign Rally, Charleston, SC (Feb. 28, 2020), available at <https://www.c-span.org/video/?469663-1/president-trump-campaign-event-north-charleston-south-carolina&start=405.2>. *See* South Carolina Campaign Speech at timestamp 6:05 minutes to 8:11 minutes; *see also* (Doc.9: 12).

32. Contrary to the PUSA ads, in the South Carolina Campaign Speech, candidate Trump did not utter the following words: “The coronavirus, this is their new hoax.” The PUSA ads’ Manufactured Statement is verifiably false, as candidate Trump did not actually say those words as a sentence as depicted by the Manufactured Statement. The PUSA ads depict candidate Trump saying words, in a sentence (the Manufactured Statement) that he did not in fact say.

33. The Manufactured Statement is materially different than the actual words said by candidate Trump in the South Carolina Campaign Speech. The South Carolina Campaign Speech was approximately 1 hour and 25 minutes in total, and during this speech candidate Trump’s remarks covered a number of issues, including the coronavirus pandemic, the vote counting issues at the Iowa Caucus, immigration and healthcare policy, and tactics used by his political opponents to affect his reelection, including the “impeachment hoax.” Six minutes and 5 seconds into the speech, candidate Trump says: “Now the Democrats are politicizing the

coronavirus” After saying other words, approximately 45 seconds later, candidate Trump then refers to the “impeachment hoax” and about 15 seconds later he refers to his political opponents’ characterization of his response to the coronavirus, saying “this is their new hoax.” Accordingly, candidate Trump’s actual words in the South Carolina Speech were that the Democrats’ politicization of the coronavirus, and criticism of the Trump administration’s response to the coronavirus, “this is their new hoax.”

34. The Manufactured Statement in the PUSA ads was created by falsely piecing together the separate audio clips “The coronavirus” and “this is their new hoax” to create an audio clip of candidate Trump saying those words all together, as one sentence. The PUSA ads compound this falsity by displaying text representing that these words were said together. While the PUSA ads play these pieced-together audio clips as a complete sentence, in the background there is a graphic that appears to show the growth of known cases of COVID-19 in the United States between January and March 2020.

35. While the audio of the Manufactured Statement plays in the PUSA ads, also displayed are subtitles of text that match with the words in the audio clips.

36. The PUSA ads both display the following text: “The coronavirus,” then immediately following, display the text: “this is their new hoax.” In the PUSA ads, the phrase “The coronavirus” begins with a capitalized “T”, the “t” in “this” is lowercase, and the word “hoax” is followed by a period. Screenshots of these frames of the PUSA ads are attached hereto as Exhibits 2 and 4.

37. As has been described in this case, the PUSA ads are “montage” ads. A “montage” is a juxtaposition of “heterogeneous elements,” a composite picture made by combining several separate pictures, or a mixture of items. See <https://www.merriam-webster.com/dictionary/montage> There are nine separate sentences in the PUSA ads, consisting

of audio clips of each sentence allegedly made by candidate Trump. Those statements purportedly come from seven different speeches or statements, made at different times. (Doc.9: 10 & n.2). Each of these statements purports to be actual audio clips of nine different sentences presented by audio in candidate Trump's own words.

38. The PUSA ads consist of several different audio clip statements with accompanying subtitles, expressing through audio and visual means, nine different sentences purportedly said by candidate Trump. The Manufactured Statement is the first audio and visual depiction of a statement by candidate Trump, followed by audio clip statements and visual depictions of eight other sentences purportedly said by candidate Trump.

39. The PUSA ads intentionally create a false message by manufacturing fake audio and using such fake audio to create a false, captioned quotation (the Manufactured Statement), in both cases to make it appear as though candidate Trump said the phrase "The coronavirus, this is their new hoax." The pieced-together audio clips and accompanying subtitles thus falsely represent that the candidate stated at a Trump Campaign rally that "The coronavirus, this is their new hoax." Candidate Trump did not, in fact, make that statement.

Independent Fact Checkers Reject the Manufactured Statement as False

40. Multiple independent fact-checking organizations debunked and proved false the Manufactured Statement in the PUSA ads: that candidate Trump stated, "The coronavirus, this is their new hoax." Candidate Trump did not make that statement and he did not say in the campaign speech that the coronavirus itself is a "hoax."

41. On February 28, 2020, after candidate Trump's South Carolina Campaign Speech, Slate's Will Saletan explained, tweeting the following: "Trump's use of the word 'hoax' tonight (7:45 in this video) referred to what he said a minute earlier: 'The Democrats are politicizing the coronavirus. ...We did one of the great jobs.' He was saying the hoax is that he's handled it

badly. Not the virus itself.” Tweet from Will Saletan (Feb. 28, 2020) available at <https://twitter.com/saletan/status/1233600059025035265> and attached hereto as Exhibit B.

42. On February 29, 2020, Check Your Fact published an article entitled “Fact Check: Did Trump Call The Coronavirus A ‘Hoax’ At His South Carolina Rally?” Brad Sylvester, “Fact Check: Did Trump Call the Coronavirus A ‘Hoax’ At His South Carolina Rally?” [hereafter, “Check Your Fact”] available at <https://checkyourfact.com/2020/02/29/fact-check-donald-trump-coronavirus-hoax-south-carolina-rally/> and attached hereto as Exhibit C.

43. The Check Your Fact article analyzed a Politico “article claiming President Donald Trump called the novel coronavirus a ‘hoax’ at his Feb. 28 campaign rally in South Carolina.” *See id.*

44. The quote from the Politico publication was as follows: “President Trump on Friday night tried to cast the global outbreak of the coronavirus as a liberal conspiracy intended to undermine his first term, lumping it alongside impeachment and the Mueller investigation.” *Id.*

45. The Check Your Fact article determined that the claim made by the Politico article was “False.” *See id.*

46. On March 1, 2020, in response to former Democratic presidential candidate Mike Bloomberg’s comment that he “find[s] it incomprehensible that the President would do something as inane as calling it a hoax, which he did last night in South Carolina,” CBS News’ Scott Pelley replied, “[h]e said the—the Democrats making so much of it is a Democratic hoax, not that the virus was a hoax.” Scott Pelley, *CBS Face the Nation*, available at <https://www.cbsnews.com/news/full-transcript-of-face-the-nation-on-march-1-2020/>

47. On March 2, 2020, Snopes, the popular, self-described “definitive fact-checking resource,” published an article finding: “Trump did not say in the passage above that the virus

itself was a hoax.” Bethania Palma, “Did President Trump Refer to the Coronavirus as a ‘Hoax’?” (Mar. 2, 2020) available at <https://www.snopes.com/fact-check/trump-coronavirus-rally-remark/> and attached hereto as Exhibit D.

48. On March 13, 2020, the Washington Post published an article entitled “Biden ad manipulates video to slam Trump.” Meg Kelly, “Biden ad manipulates video to slam Trump,” *The Washington Post* (Mar. 13, 2020) (emphasis added) [hereafter, “Washington Post Article”], attached hereto as Exhibit E.

49. The “Biden ad” analyzed by the Washington Post was a March 3rd tweet by the Biden campaign including a video containing the same Manufactured Statement as the PUSA ads, comprised of the same false, manufactured audio clip of candidate Trump as contained in the PUSA ads. *See id.*

50. According to the fact-checker from the Washington Post: “The full quote shows Trump is criticizing Democratic talking points and the media’s coverage of his administration’s response to coronavirus. He never says that the virus itself is a hoax, and although the Biden camp included the word ‘their,’ the edit does not make clear to whom or what Trump is referring.” *Id.*

51. The Washington Post gave the Biden ad “Four Pinocchios,” which is its highest rating for false information. *Id.*

52. On March 15, 2020, more than one week before WJFW-NBC and other TV stations began running the PUSA ad, PolitiFact, another popular fact-checking website, also rated as “False” the Biden ad including the false Manufactured Statement later included in the PUSA ads. PolitiFact concluded that the Biden ad was a “deceptively edited ad,” explaining that “Biden’s video is inaccurate. We rate it False.” The Biden ad was rated “False” because it included the false Manufactured Statement later included in the PUSA ads. The Manufactured

Statement, comprised of falsely stitched-together audio clips, in the Biden ad is “an example of what the Washington Post calls ‘splicing,’ or ‘editing together disparate videos’ that ‘fundamentally alters the story that is being told.’ ” Daniel Funke, “Ad Watch: Biden video twists Trump’s words on coronavirus,” (Mar. 15, 2020) available at <https://www.politifact.com/factchecks/2020/mar/15/joe-biden/ad-watch-biden-video-twists-trumps-words-coronavir/> and attached hereto as Exhibit F.

Public Acceptance of False Manufactured Statement as Fact

53. The PUSA ads provide no citations attributing the nine sentences by candidate Trump to when and where they were allegedly said. The PUSA ads falsely depict candidate Trump as making the Manufactured Statement. However, candidate Trump never made the Manufactured Statement. However, due to the wide distribution of the PUSA ads, the false assertion that candidate Trump made the Manufactured Statement became and has become widely accepted as fact by members of the voting public.

54. The Manufactured Statement was, and has been, widely repeated in news articles and among members of the voting public on social media including Facebook and Twitter, all of which repeat the PUSA ad’s false Manufactured Statement. See, for example:

Robert Reich’s tweet:

<https://twitter.com/RBReich/status/1246825354624479234?s=20> (1k retweets, 2.8k likes);

George Takei’s tweet:

<https://twitter.com/GeorgeTakei/status/1247609785148682240?s=20> (8.7k retweets, 27.7k likes);

Dr. David A. Lustig’s tweet:

<https://twitter.com/drddave1999/status/1248225859355521024?s=20> (2.2k retweets, 3.7k likes);

Amber Phillips, Washington Post reporter, tweeted “Trump called it a ‘hoax’ in later February,” and later deleted the tweet, *see*

<https://www.washingtonexaminer.com/news/reporter-apologizes-and-deletes-tweet-claiming-trump-called-coronavirus-a-hoax>;

Associated Press, “Trump Campaign Threatens Lawsuit Over Political Ad Featuring President Labeling Coronavirus a ‘Hoax’ ” (Mar. 26, 2020) available at <https://time.com/5810960/anti-trump-coronavirus-ad-lawsuit/> (“President Trump and Fox News called [the coronavirus pandemic] a Democratic hoax.”);

Letter to Editor, Easton Express Times, “Trump’s ‘hoax’ is making America sick” (Mar. 24, 2020) available at <https://www.lehighvalleylive.com/opinion/2020/03/trumps-hoax-is-making-america-sick-letter.html>;

Letter to Editor, Easton Express Times, “Trump’s ‘hoax’ referred to inept Democrats, not the coronavirus” (Mar. 25, 2020) available at <https://www.lehighvalleylive.com/opinion/2020/03/trumps-hoax-referred-to-inept-democrats-not-the-coronavirus-letter.html> (responding to 3/24/2020 letter: “President Trump never called the virus a hoax. The writer is repeating a Democratic lie. Trump said some of the things the Democrats were saying about his administration’s response to the coronavirus outbreak was ‘their new hoax.’ ”).

55. Despite notice of cease and desist letters and numerous fact checkers debunking the Manufactured Statement in the PUSA ads as false or misleading, PUSA continued airing the ads with knowledge of or reckless disregard for the falsity of the Manufactured Statement in the ads.

PUSA’s Response Letter to the Cease and Desist Demand Reaffirmed the False, Manufactured Statement, to Induce TV Stations to Continue Airing the PUSA Ads

56. On March 25, 2020, the Trump Campaign sent cease and desist letter(s) (“Cease and Desist Letters”) to a number of television stations, including WJFW-NBC, informing the station manager that the PUSA ad is “false, misleading and deceptive.” A redacted version of the Cease and Desist Letter sent to WJFW-NBC is attached hereto as Exhibit G. The Trump Campaign sent cease and desist letters to other TV stations broadcasting the PUSA ads, in substantially the same form as Exhibit G.

57. The Cease and Desist Letters explained, in relevant part, that the PUSA ads stitched together audio clips from candidate Trump’s statements to falsely and intentionally

represent that he made the statement that “The coronavirus, this is their new hoax.” In fact, candidate Trump did not utter those words.

58. The Cease and Desist Letters referenced and attached source material from “multiple independent fact-checking organizations [that] have debunked the core claim of the PUSA ad,” that is, that candidate Trump stated: “The coronavirus, this is their new hoax.”

59. Upon information and belief, PUSA was provided a copy of the Trump Campaign’s Cease and Desist Letters sent to TV stations concerning the PUSA ads. PUSA not only disregarded the thorough showing of the false and defamatory Manufactured Statement, it doubled down and expanded the distribution of the PUSA ads for broadcast more frequently and on more TV stations.

60. On March 26, PUSA sent TV stations broadcasting the PUSA ads throughout the country a letter in response to the Trump Campaign’s cease and desist letters (“Letter Response”). A true and correct copy of PUSA’s Letter Response dated March 26, 2020 is attached hereto as Exhibit 5.

61. The TV stations that had been airing the PUSA ads, including WJFW-NBC, are subject to liability for broadcasting false and defamatory advertisements by third parties such as PUSA and such stations may refuse to broadcast such ads. PUSA sent the Letter Response to TV stations including WJFW-NBC to persuade them not to retract or refuse the airing of the PUSA ads and to continue broadcasting the PUSA ads.

62. Upon information and belief, those TV stations including WJFW-NBC relied upon the representations in PUSA’s Letter Response in making the decision to not retract or refuse to air the PUSA ads and to continue broadcasting those ads. For example, WJFW-NBC continued to run the PUSA ad, broadcasting the PUSA ad thirty-six more times from March 26, 2020 through April 6, 2020. WJFW-NBC broadcast the PUSA ad ten times on April 6, 2020.

63. In its Letter Response, PUSA acknowledges the Trump Campaign's claim that the PUSA ads were "false, misleading, and deceptive" due to the Manufactured Statement. The Letter Response concedes that the Trump Campaign's complaint about the PUSA ads "correctly states that the ad splices together audio clips" to depict candidate Trump saying the Manufactured Statement: "The coronavirus, this is their new hoax."

64. PUSA's Letter Response asserts that the PUSA ads "do[] not manipulate clips to make it seem like Mr. Trump said these words—he did, just like he said every other word in the ad." PUSA therefore told the TV stations and others that candidate Trump in fact made the Manufactured Statement. PUSA made this knowingly false statement in order to persuade TV stations to continue broadcasting the PUSA ads and to assert that the Manufactured Statement was not false and defamatory as claimed by the Trump Campaign.

65. Indeed, PUSA's assertions apparently convinced WJFW-NBC that candidate Trump actually made the Manufactured Statement, because in this case, WJFW-NBC has asserted:

- "The President's 'hoax' statement, included in the montage [*i.e.*, PUSA's ad], came from his address to a South Carolina rally ..." (Doc.9: 10);
- "[T]he President 'made the 'hoax' comment at a campaign rally in Charleston, South Carolina." (Doc.9: 11-12); and
- "The text of these words [the Manufactured Statement] appears on the screen" during the PUSA ads, and the words in the Manufactured Statement "are the President's actual words." (Doc.9: 11).

66. PUSA asserted in the Letter Response that candidate Trump actually said the words contained in the Manufactured Statement. However, PUSA also asserted that the PUSA ads "do[] not assert that Mr. Trump said the precise sentence, 'The coronavirus, this is their new

hoax.’ ” However, the opening line in the PUSA ads has audio of candidate Trump saying those words together, as a sentence. This is confirmed by the text running on the screen putting those words together, as a sentence. PUSA’s Letter Response omits that fact in describing the PUSA ads to TV stations.

67. PUSA told TV stations that the Manufactured Statement consisted of “words” said by candidate Trump, and that those words were stated at different times in a campaign speech. PUSA admitted that the Manufactured Statement in the PUSA ads consisted of “multiple” audio clips that are “distinct audio clips.” PUSA asserted that “[v]iewers” of the PUSA ads would know that “the ad compiles multiple clips” because the candidate’s “tone of voice discernibly changes.”

68. Upon information and belief, PUSA widely distributed its Letter Response to TV stations broadcasting the PUSA ads. Defendant WJFW-NBC and other TV stations nationwide continued to broadcast the PUSA ads and accepted PUSA’s purchase of advertising air time to broadcast the ads.

After Receiving the Cease and Desist Letter, PUSA Doubled Down, Expanding and Increasing the Distribution of the PUSA Ads Containing the Manufactured Statement

69. On March 26, 2020, PUSA doubled down in distributing the false, Manufactured Statement, in blatant disregard of the falsity shown by the Cease and Desist letters. PUSA expanded its ad buy for the “Exponential Threat” advertisement to Arizona. *See* PUSA, “Priorities USA Expands ‘Exponential Threat’ Ad Buy to Arizona Following Trump Campaign’s Failed Challenge” (Mar. 26, 2020) available at <https://priorities.org/press/priorities-usa-expands-exponential-threat-ad-buy-to-arizona-following-trump-campaigns-failed-challenge/>. A true and correct copy of this press release is attached hereto as Exhibit 6.

70. On March 27, 2020, PUSA again, knowing that the PUSA ads contained the false Manufactured Statement, expanded the distribution of the “Exponential Threat” advertisement to Spanish speaking viewers. *See* PUSA, “Priorities USA Launches “Exponential Threat” Ads in Spanish, Running Digitally in Florida” (Mar. 27, 2020) available at <https://priorities.org/press/priorities-usa-launches-exponential-threat-ads-in-spanish-running-digitally-in-florida/>. A true and correct copy of this press release is attached hereto as Exhibit 7.

71. On March 30, 2020, PUSA released an updated version of the “Exponential Threat” advertisement entitled “One Week Later,” which contains the same false, Manufactured Statement, “The coronavirus, this is their new hoax.” (*See* Exhibit 3, attached). The “One Week Later” advertisement is available at <https://www.youtube.com/watch?v=hl6T2XxNtM0&feature=youtu.be> and screen shots of the opening sentence of that advertisement are attached hereto as Exhibit 4.

72. In the press release announcing the One Week Later advertisement, PUSA acknowledged that it had been made aware that the Manufactured Statement was false and misleading. *See* PUSA, “One Week Later, Priorities USA Action Releases Updated Version of Ad Trump Tried to Block” (Mar. 30, 2020) available at <https://priorities.org/press/one-week-later-priorities-usa-action-releases-updated-version-of-ad-trump-tried-to-block/>. That press release is attached as Exhibit 3.

73. On April 1, 2020, PUSA further expanded the distribution of the “One Week Later” advertisement, announcing a \$10 million advertising buy, including an initial step of \$1 million of ad time and extending the duration of the airing of the advertisement. *See* PUSA, “Priorities USA Action Extends and Expands Ad Buy, Launches Biden vs. Trump Contrast Ads” (Apr. 1, 2020) available at <https://priorities.org/press/priorities-usa-action-extends-and-expands->

[ad-buy-launches-biden-vs-trump-contrast-ads/](#). A true and correct copy of this press release is attached hereto as Exhibit 8.

74. The PUSA ads, “Exponential Threat” and “One Week Later,” are both publicly available. See PUSA, “Exponential Threat” advertisement available at <https://www.youtube.com/watch?v=bkMwvmJLnc0&feature=youtu.be>, and “One Week Later” advertisement available at <https://www.youtube.com/watch?v=hl6T2XxNtM0&feature=youtu.be>

PUSA Distributed the PUSA Ads, Which are False and Defamatory of the Trump Campaign, With Knowledge and/or Reckless Disregard for the Falsity of the Manufactured Statement

75. PUSA is subject to liability under the law for distributing the false and defamatory Manufactured Statement in the PUSA ads.

76. PUSA intentionally manufactured and continues to widely distribute advertisements, which contain the false and defamatory Manufactured Statement concerning the Trump Campaign, knowing that such statement in the PUSA ads was indeed false and defamatory.

77. The PUSA ads may be replayed and shared from YouTube and other platforms and are republished and shared through the Internet by the sharing of the ad throughout social media. In short, the false audio clips of the candidate stating: “The coronavirus, this is their new hoax.” quickly became “viral.”

78. The PUSA ads contain fraudulently manufactured, false information about the Trump Campaign (*i.e.*, the Manufactured Statement) so that the Manufactured Statement would be accepted as true and continuously repeated. The PUSA ads, in short, were intended to create, and did create, a “meme,” to misattribute a quotation to the Trump Campaign by falsely representing that the candidate made the statement “The coronavirus, this is their new hoax.” This false statement has become a meme, repeated and redistributed throughout the United States

and the world, such that the Manufactured Statement allegedly by candidate Trump has become accepted as true by numerous persons throughout the U.S. and the world.

79. The PUSA ads include the false Manufactured Statement, depicted by audio clips and a false textual quotation of a statement allegedly made by candidate Trump at a campaign rally and/or another event organized and orchestrated by the Trump Campaign. The false Manufactured Statement in the PUSA ads is defamatory of the Trump Campaign because it falsely depicts the candidate as saying “The coronavirus, this is their new hoax.” in a campaign statement, by piecing together audio clips and displaying in text a purported quote from candidate Trump speaking at campaign events. PUSA continues to make the PUSA ads available and therefore it continues to defame the Trump Campaign.

80. The Manufactured Statement in the PUSA ads is false in representing that the Manufactured Statement was said by candidate Trump when he did not in fact utter that statement.

81. A viewer or listener of the PUSA ads might reasonably understand that the Manufactured Statement in the PUSA ads was intended to refer to the Trump Campaign. A reasonable person could believe that the Manufactured Statement concerned the Trump Campaign.

82. A listener or viewer of the Manufactured Statement comprised of audio clips of candidate Trump from the South Carolina Campaign Speech would reasonably believe that the Manufactured Statement concerned the Trump Campaign. The Manufactured Statement took audio clips of separate words said by candidate Trump at a campaign rally.

83. Because the false Manufactured Statement was represented to be an actual statement made by candidate Trump at the South Carolina campaign rally, an event of the Trump

Campaign, made by the candidate Trump, a viewer or listener of the PUSA ads would reasonably understand the false Manufactured Statement to concern the Trump Campaign.

84. A viewer or listener of the PUSA ads would also understand the false Manufactured Statement to concern the Trump Campaign because the last sentence of the PUSA ads demonstrates them to be about the presidential campaign, saying at the closing: “America needs a leader we can trust.”

85. The Manufactured Statement is of and concerning the Trump Campaign because it falsely communicates a statement in the candidate’s own words that the candidate did not say. Portions of the audio clips were taken from the candidate’s remarks at a campaign rally.

86. By the false, Manufactured Statement represented to be made by the candidate at a campaign rally that he did not make, PUSA made a false communication of and concerning the Trump Campaign.

87. The false Manufactured Statement is a statement of and concerning the Trump Campaign because it is represented as a statement actually made by candidate Trump at a campaign rally of the Trump Campaign in the midst of his re-election campaign. It defamed the Trump Campaign to falsely state that candidate Trump made the Manufactured Statement when he did not in fact make the statement.

88. Because the false Manufactured Statement was represented to be an actual statement made by candidate Trump at the South Carolina campaign rally, an event of the Trump Campaign, made by the candidate Trump, a viewer or listener of the PUSA ads would reasonably understand the Manufactured Statement to concern the Trump Campaign.

89. A viewer or listener of the PUSA ads would also understand the false Manufactured Statement to concern the Trump Campaign because the last sentence of the PUSA

ads demonstrates they are about the presidential campaign, saying at the closing: “America needs a leader we can trust.”

90. The PUSA ads defame the Trump Campaign in representing to viewers and listeners of the ads that the false Manufactured Statement was said by candidate Trump.

91. The PUSA ads include audio clips of candidate Trump’s statements in his own voice, along with subtitles visually depicting the words in the audio clips, followed by a tag line about needing “a leader we can trust.” Excluding the closing tag line of the ad, the PUSA ads purports to communicate verbatim statements by candidate Trump.

92. Because the Manufactured Statement and the other eight sentences in the PUSA ads were comprised of audio clips of candidate Trump’s words, accompanied by subtitles communicating the audio sentences, a reasonable viewer or listener of the PUSA ads would conclude that the Manufactured Statement purports to be a verbatim audio and textual representation of a sentence uttered by candidate Trump.

93. A reasonable viewer or listener hearing or seeing the PUSA ads would hear and/or see that the candidate Trump said, as a sentence: “The coronavirus, this is their new hoax.”

94. The Trump Campaign depends upon support from the public to achieve its purposes. The false Manufactured Statement in the PUSA ads tends to interfere with the Trump Campaign’s activities by prejudicing the Trump Campaign in the estimation of the public. The Manufactured Statement in the PUSA ads is therefore defamatory of the Trump Campaign.

95. A viewer or listener of the PUSA ads would understand the Manufactured Statement in the PUSA ads to state the position of the Trump Campaign, that candidate Trump stated, “The coronavirus, this is their new hoax.”, and that the Trump Campaign stated that the coronavirus pandemic is a “hoax.” The false Manufactured Statement concerning the Trump

Campaign has harmed and will harm the reputation of the Trump Campaign and has deterred and will deter third persons from associating or dealing with the Trump Campaign, including causing them not to vote for its candidate for reelection.

96. PUSA's distribution of the ads containing the false Manufactured Statement harmed and harms the reputation of the Trump Campaign, lowering it in the estimation of the public. Persons who view and/or hear the Manufactured Statement would be led by viewing and/or hearing the false Manufactured Statement to believe that the Trump Campaign did not and does not believe the coronavirus pandemic is real. The PUSA ads therefore defame the Trump Campaign because the ads contain the false Manufactured Statement falsely represented to be made on behalf of the Trump Campaign. The PUSA ads caused the false Manufactured Statement to continue to be repeated by the public to defame and disparage the Trump Campaign.

97. The false Manufactured Statement in the PUSA ads have forced, and will continue to force, the Trump Campaign to expend substantial funds on corrective advertisements, and to otherwise publicize the fact that candidate Trump did not make the Manufactured Statement, that is, he did not refer to the very real and very serious coronavirus pandemic as a "hoax."

98. The PUSA ads perpetuate the acceptance and repetition of this false information and continued the effort to defame and disparage the Trump Campaign by the means of the Manufactured Statement.

CLAIM FOR RELIEF
COMMON LAW DEFAMATION

99. Plaintiff reincorporates and realleges as though fully set forth hereto the allegations of paragraphs 1 through 98 of this Complaint.

100. The PUSA ads contain the Manufactured Statement, which is comprised of stitched together audio clips of candidate Trump that falsely depict him saying, “The coronavirus, this is their new hoax.”

101. The subtitles used in the PUSA ads represent that the two phrases “The coronavirus,” and “this is their new hoax” are one complete sentence stated by candidate Trump, through the use of a capitalization of the letter “T” in “the” at the beginning of the sentence, by using a lowercase “t” in the word “this,” and by adding a period at the end.

102. The Manufactured Statement in the PUSA ads falsely represents candidate Trump as saying, “The coronavirus, this is their new hoax.”

103. PUSA asserted and asserts that the Manufactured Statement was made by candidate Trump at a campaign event.

104. The PUSA ads knowingly and intentionally misattributed the Manufactured Statement to candidate Trump – a statement that PUSA knew that candidate Trump never said.

105. The Manufactured Statement was and is false because candidate Trump did not utter the words, “The coronavirus, this is their new hoax.” PUSA knowingly and intentionally falsely attributed the Manufactured Statement to candidate Trump in the PUSA ads.

106. The false Manufactured Statement is materially different than the actual statements made by candidate Trump at the South Carolina Campaign Speech. The Manufactured Statement was and is defamatory of the Trump Campaign.

107. Candidate Trump’s actual remarks at the South Carolina Campaign Speech expressed ideas materially different than the Manufactured Statement. Among other things, candidate Trump discussed the Democrats’ politicization of the coronavirus pandemic and Democrats’ attack on the Trump administration’s response to the coronavirus and the sufficiency and timing of its response. After describing those tactics, candidate Trump said “[t]hey tried the

impeachment hoax. That was on a perfect conversation. They tried anything, they tried it over and over, they've been doing it since he got in. It's all turning, they lost. It's all turning, think of it, think of it. And this is their new hoax."

108. PUSA knew and knows that the Manufactured Statement was not actually said by candidate Trump as represented and that the Manufactured Statement was materially different than the words actually spoken by candidate Trump at the South Carolina Campaign Speech.

109. The audio and textual depictions comprising the Manufactured Statement in the PUSA ads are false and defamatory of the Trump Campaign.

110. The Manufactured Statement in the PUSA ads is of and concerning the Trump Campaign and it is defamatory of the Trump Campaign. The PUSA ads falsely represent that the Manufactured Statement was made by candidate Trump and persons who view and/or hear the Manufactured Statement in the PUSA ads would understand it to express the position of the Trump Campaign.

111. The Manufactured Statement in the PUSA ads is defamatory of the Trump Campaign and it was included in the ads to diminish the reputation of the Trump Campaign in the estimation of the citizenry and deter persons from dealing with the Trump Campaign, including, by not voting for candidate Trump's reelection.

112. The PUSA ads including the Manufactured Statement were, and are, communicated to third persons.

113. The Manufactured Statement in the PUSA ads was made to diminish and harm the reputation of Donald J. Trump as a candidate for reelection for President of the United States and was made to harm the reputation of the Trump Campaign as the organization whose purpose is to obtain that reelection.

114. The Manufactured Statement in the PUSA ads is of and concerning the Trump Campaign, in that the ads represent that the Manufactured Statement was made by the candidate for reelection, the President, and the PUSA ads are intended to affect the outcome of the election.

115. When it created and distributed the PUSA ads, PUSA had actual knowledge that the Manufactured Statement in the PUSA ads was false and/or acted in reckless disregard of the falsity of the Manufactured Statement. In distributing the PUSA ads and broadcasting the PUSA ads on TV networks throughout the country, PUSA had actual knowledge of the falsity of the Manufactured Statement and/or acted with reckless disregard as to the falsity of the Manufactured Statement.

116. The PUSA's knowing and intentional distribution of fabricated statements, that is, the Manufactured Statement in the PUSA ads, constitutes actual malice, knowledge of or reckless disregard for the falsity of the statements.

117. PUSA was put on notice that the Manufactured Statement in the PUSA ads was false by the widely distributed publications of the independent fact-checkers.

118. PUSA also had notice that the Manufactured Statement in the PUSA ads was false when it was made aware of the Cease and Desist Letters from the Trump Campaign to television stations airing the ads.

119. PUSA knew of the falsity of the Manufactured Statement and/or acted with reckless disregard as to the falsity of the Manufactured Statement in the PUSA ads when it continued to broadcast the PUSA ads after it was put on notice that the Manufactured Statement in the ad was deemed false.

120. PUSA knew of the falsity of the Manufactured Statement and/or acted with reckless disregard as to the falsity of the Manufactured Statement in the PUSA ads when it

continued to broadcast the PUSA ads after it was made aware of the Cease and Desist Letters from the Trump Campaign to television stations airing the ads.

121. The false Manufactured Statement in the PUSA ads has caused and continues to cause actual damages to the Trump Campaign.

122. In creating and distributing the PUSA ads containing the false and defamatory Manufactured Statement, and in communicating with TV stations to urge them to continue airing the PUSA ads, PUSA acted with malice or reckless disregard for the Trump Campaign's rights, therefore an award for punitive damages is appropriate.

WHEREFORE,

plaintiff demands the following relief:

(a) Judgment in its favor and against defendant Priorities USA Action for damages in an amount to be determined at trial;

(b) Costs, disbursements, and attorneys' fees to the maximum amount allowed by law;
and

(c) For such further relief as the Court deems just and equitable.

PLAINTIFF DEMANDS A TRIAL BY JURY OF THE CLAIMS ASSERTED IN THIS COMPLAINT.

Dated this 18th day of June, 2020.

By:

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*Attorneys for Plaintiff Donald J. Trump for President,
Inc.*

EXHIBIT 1



March 23, 2020 | Press Release

Priorities USA Action Launches Initial \$6 Million TV & Digital Ad Buy Holding Trump Accountable for Failing Coronavirus Response

Priorities USA Action is releasing several new TV and digital ads highlighting Donald Trump's disastrous response to the rapidly worsening coronavirus pandemic. The ads also contrast Trump's chaotic, unstable behavior with the honest, steady leadership that Vice President Joe Biden would bring to the job.

Trump's response to the crisis has been nothing short of a failure. Not only did he waste months and squander numerous opportunities to mitigate the risk to the American people, he continues to lie constantly and fail to act in the best interest of the country. It is imperative that voters know the truth about Trump's failures so they can continue to hold their government accountable in this time of crisis.

The first TV ad, "**Exponential Threat**," is inspired by an ad created by the group Fellow Americans, and highlights Trump's repeated comments downplaying the virus and shirking responsibility as the number of infections in America increased exponentially. Trump knew early on the extreme danger posed by the coronavirus to the American people, but he intentionally lied about it in order to serve his own short-term political goals.

"**Exponential Threat**" will begin running in Florida, Michigan, Pennsylvania and Wisconsin on Tuesday and is part of a \$6 million TV and digital buy across the four states. The buy may expand to more states at a later date.

Priorities is also releasing a second TV ad, "**Better Prepared**," which highlights how Joe Biden's wealth of experience and good judgment position him as a more effective, trustworthy leader for our country in moments of crisis. While Trump lies constantly and refuses to heed the advice of his advisors, Biden will lead with science, listen to experts and always tell the American people the truth — even when it's hard.

Additionally, Priorities is releasing two digital ads that will begin running on Tuesday across a variety of online platforms like Facebook and streaming TV. These ads — "**Map**" and "**Steady**



would provide a significant departure from the chaos currently enveloping our government, respectively. Since last week, Priorities has also been promoting news content to voters in critical battleground states to keep them informed about Trump's failure to respond effectively to the mounting crisis.

"From the beginning of the coronavirus outbreak, Donald Trump has repeatedly misled the American people and exposed us to unnecessary danger. His failure to lead continues to have real life and death consequences as hospitals, local and state governments, small businesses, and millions of Americans are left without the tools and information they need," said **Priorities USA Chairman Guy Cecil**. "Tens of thousands of people are sick, hundreds have already died, and millions are losing their jobs. We simply cannot allow Donald Trump to continue to lie and spread misinformation unchecked. The American people deserve the truth about their president."



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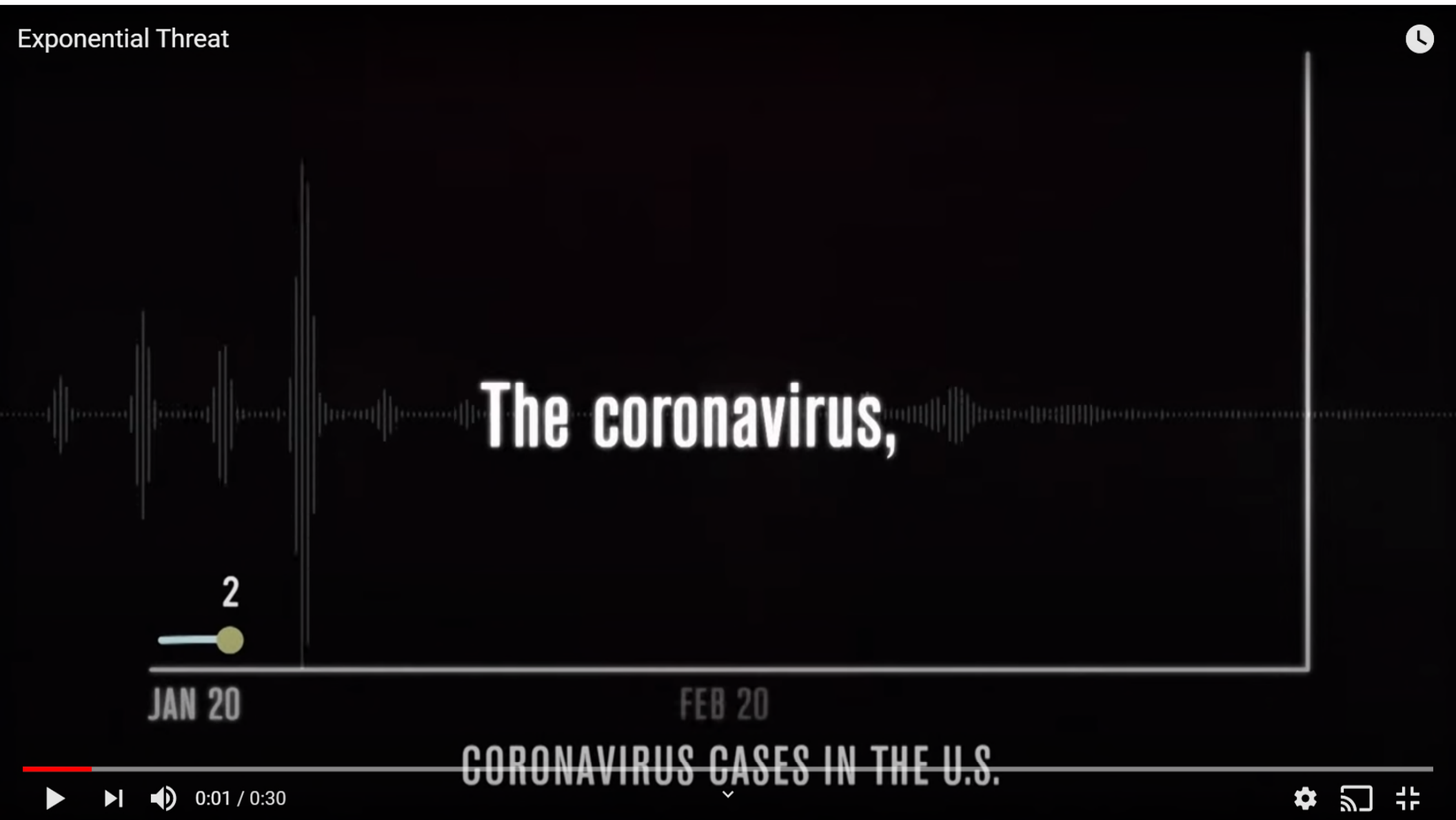
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EXHIBIT 2



Exponential Threat



this is their new hoax.

4

JAN 20

FEB 20

MAR 22

CORONAVIRUS CASES IN THE U.S.



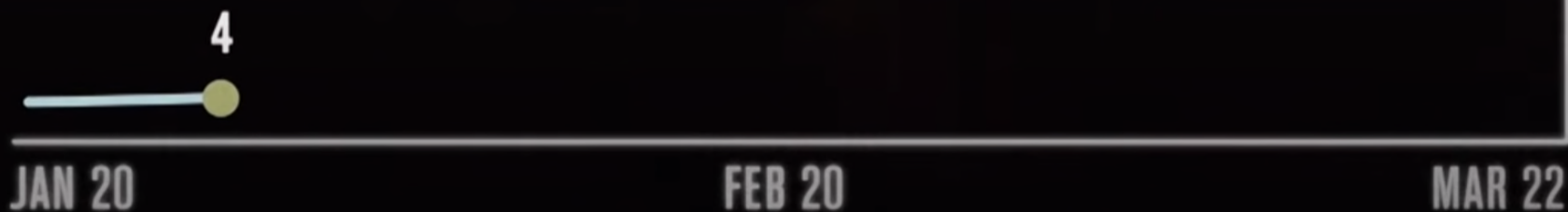
0:02 / 0:30



Exponential Threat



this is their new hoax.



CORONAVIRUS CASES IN THE U.S.

▶ ▶| 🔊 0:03 / 0:30



EXHIBIT 3

March 30, 2020 | Press Release

One Week Later, Priorities USA Action Releases Updated Version of Ad Trump Tried to Block

Today, Priorities USA Action is releasing an updated version of its “[Exponential Threat](#)” ad.

The updated ad, “[One Week Later](#),” features the latest figures that reflect the exploding number of cases of the novel coronavirus in the United States. Trump continues to downplay the severity of the crisis and praise himself while thousands of Americans are getting sick, hospitals are overwhelmed, and millions are losing their jobs. In addition to updated numbers, the new version of the ad features Trump’s infamous claim from just a few days ago that he is doing “one hell of a job” even as the death toll rises. The Trump campaign recently threatened local TV stations with legal action if they continued to run the ad, but every single station rejected Trump’s attempt to hide the truth about his failures from the American people.

Priorities USA [announced](#) an expansion of the ad buy, spending \$600,000 in Arizona in addition to the \$6 million already committed in Michigan, Pennsylvania, Wisconsin, and Florida.

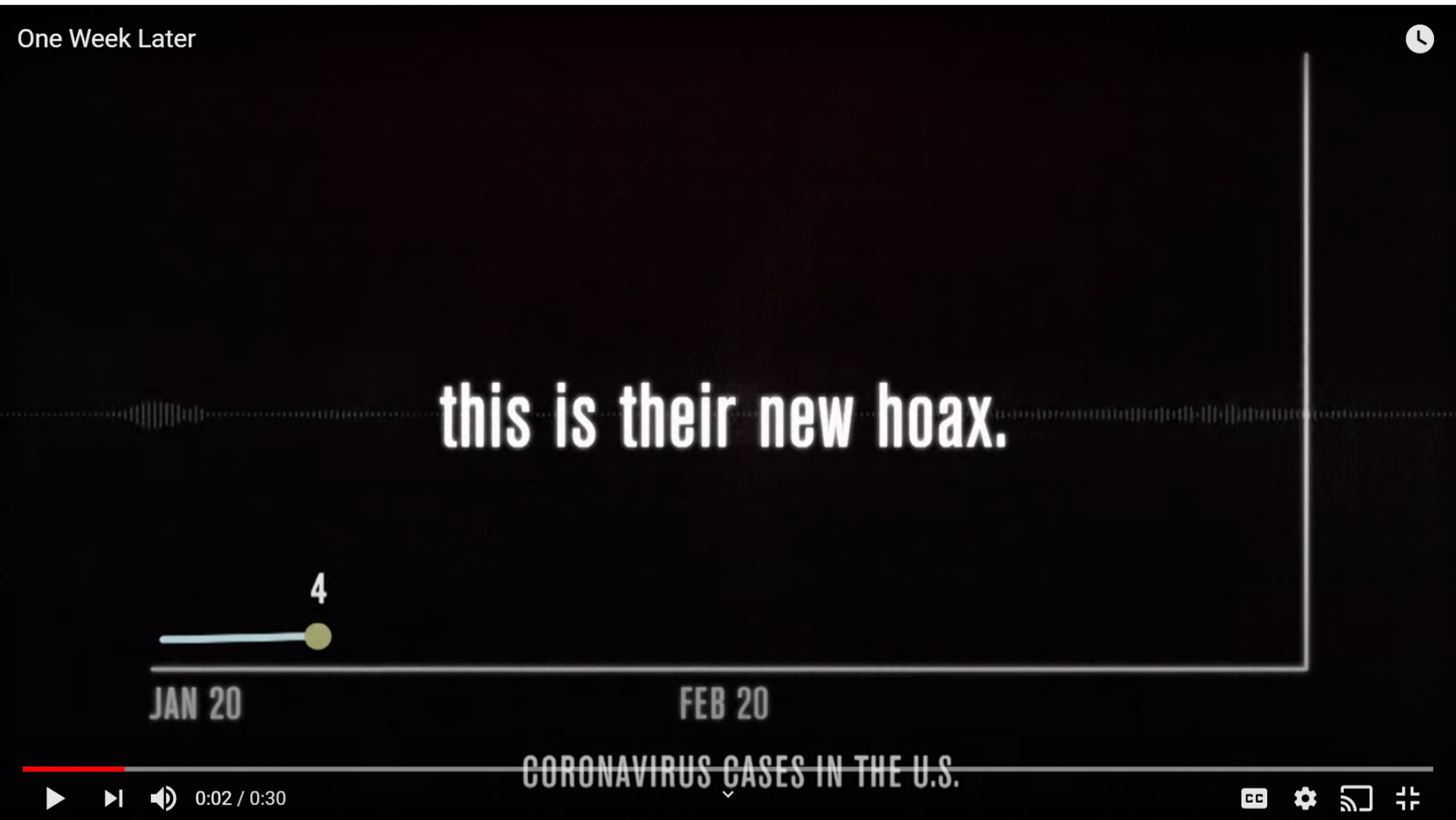
The original ad was inspired by an ad created by the group Fellow Americans, and highlights Trump’s repeated comments downplaying the virus and shirking responsibility as the number of infections in America increased exponentially.

“This ad tells the truth about Donald Trump’s failed leadership and the disastrous consequences of his short-sighted inaction for millions of Americans,” said **Guy Cecil, Chairman of Priorities USA**. “Trump may want to hide this truth from voters, but his own words show that he has been more concerned about his own political standing than addressing this crisis directly before the exponential explosion of cases across the country. This is not a leader Americans can trust to keep them safe.”



EXHIBIT 4





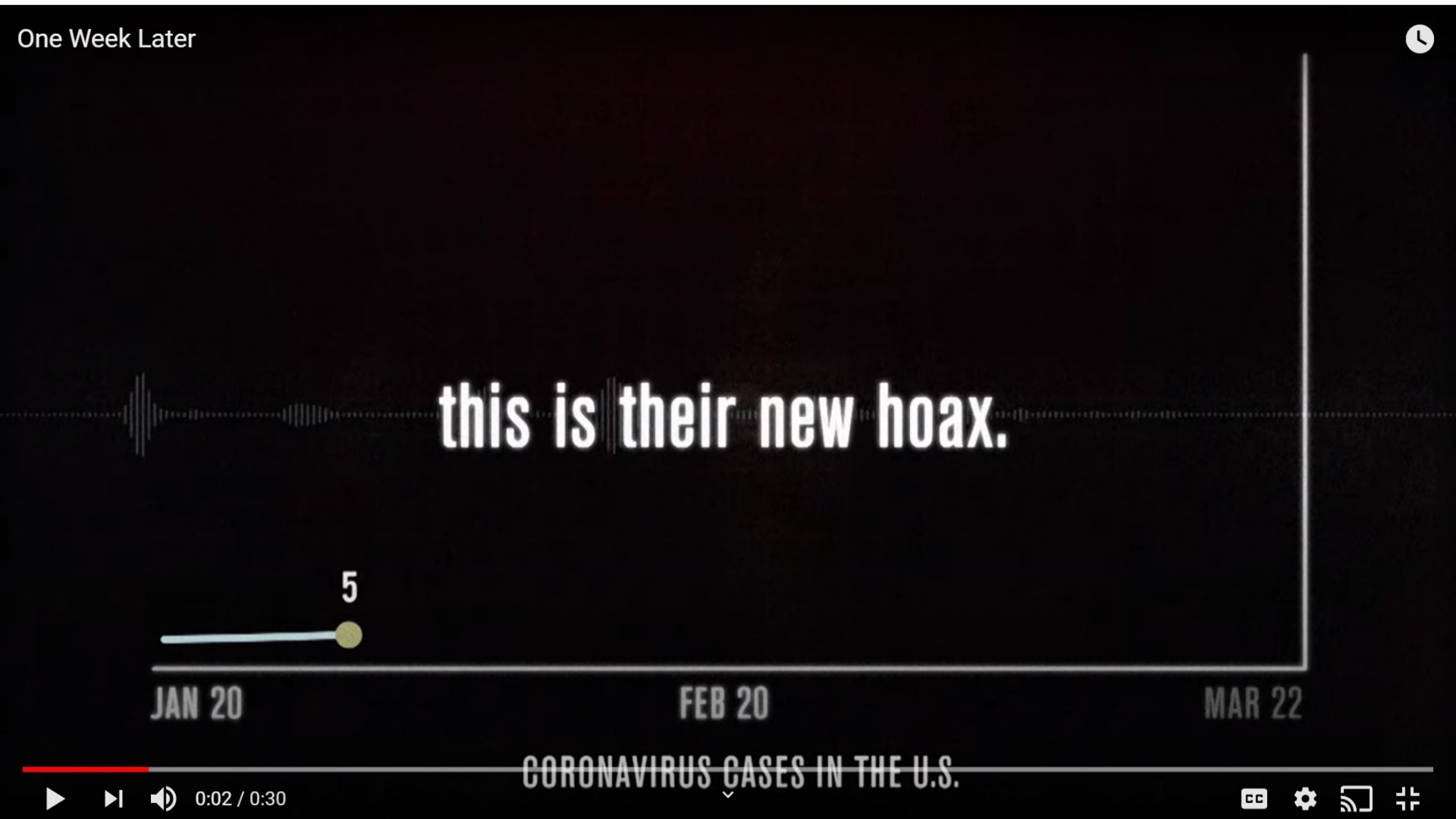


EXHIBIT 5



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PerkinsCoie.com

March 26, 2020

Ezra W. Reese
Ereese@perkinscoie.com
D. +1.202.434.1616
F. +1.202.654.9109

Re: Priorities USA Action Advertisement

Dear Station Manager:

Our firm is counsel to Priorities USA Action. We write in response to the letter you recently received from counsel to Donald Trump for President, Inc. (the “Trump campaign”), urging you to censor an advertisement sponsored by our client that is critical of President Trump’s handling of the COVID-19 pandemic. Their letter calls our client’s ad “false, misleading, and deceptive.” But our client’s advertisement is entirely truthful—in fact, **the ad uses only Mr. Trump’s own words**. Our client has a right to inform the public of what our leaders do and say, and the American people have a right to hear it.

The Trump campaign alleges that our client’s ad is false, misleading, and deceptive because it “stitched together fragments from multiple speeches by President Trump to fraudulently and maliciously imply that President Trump called the coronavirus outbreak a ‘hoax.’” First, the ad does not manipulate clips to make it seem like Mr. Trump said these words—he did, just like he said every other word in the ad. The complaint correctly states that the ad splices together audio clips. The ad is a series of audio clips, just like countless other ads. That’s the whole concept. Viewers understand that the ad compiles multiple clips, for many reasons including the fact that Mr. Trump’s tone of voice discernibly changes between the clips. This presentation is common in ads and is not misleading.

Our client’s ad does not assert that Mr. Trump said the precise sentence, “The coronavirus, this is their new hoax.” This part of the ad features two noticeably distinct audio clips that in fact sound quite different. However, having them adjoining is not misleading, because they are part of the same statement by the President. The advertisement merely shortens Mr. Trump’s statement to remove extraneous material.

The full quote from Mr. Trump is as follows:

Now the Democrats are politicizing the coronavirus. You know that, right? Coronavirus. They’re politicizing it. We did one of the great jobs. You say, ‘How’s President Trump doing?’ They go, ‘Oh, not good, not good.’ They have no clue. They don’t have any clue. They can’t even count their votes in Iowa, they can’t even count. No they can’t. They can’t count their votes.

One of my people came up to me and said, ‘Mr. President, they tried to beat you on Russia, Russia, Russia. That didn’t work out

March 26, 2020

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too well. They couldn't do it. They tried the impeachment hoax. That was on a perfect conversation. They tried anything, they tried it over and over, they've been doing it since you got in. It's all turning, they lost, it's all turning. Think of it. Think of it. And this is their new hoax.

The letter of complaint argues that this edit was misleading, and that the word "hoax" was not referring to Covid-19 itself. In fact, Mr. Trump *was* talking about Covid-19 at a campaign rally when he said "this is their new hoax."¹ Many, many news outlets and publications have interpreted Mr. Trump to have claimed that the outbreak was a hoax perpetuated by Democrats. For example:

- "Trump rallies his base to treat coronavirus as a 'hoax.'"²
- "Trump called the coronavirus 'their new hoax.'"³
- "During his speech, Trump described the coronavirus outbreak as the Democrats' 'new hoax.'"⁴
- Mr. Trump "downplay[ed] the seriousness of the situation [and] mock[ed] political opponents for hyping a 'hoax.'"⁵
- Mr. Trump faced "criticism for using the word 'hoax' in describing the outbreak."⁶
- "Trump calls coronavirus Democrats' 'new hoax.'"⁷

It is clear that Mr. Trump was referring to the perceived severity of the coronavirus outbreak as a "hoax."

¹ See *President Trump Campaign Event in North Charleston, South Carolina*, C-SPAN, <https://www.c-span.org/video/?469663-1/president-trump-campaign-event-north-charleston-south-carolina&start=403>.

² Trump rallies his base to treat coronavirus as a 'hoax', Politico (Feb. 28, 2020), <https://www.politico.com/news/2020/02/28/trump-south-carolina-rally-coronavirus-118269>.

³ *Id.*

⁴ *Trump says coronavirus is Democrats' 'new hoax' in raucous South Carolina rally ahead of primary*, USA Today (Feb. 28, 2020), <https://www.usatoday.com/story/news/politics/elections/2020/02/28/trump-hold-south-carolina-rally-before-democratic-primary-election/4887015002/>.

⁵ *Trump's own words contradict claim he's always viewed coronavirus as 'very serious'*, ABC News (March 19, 2020), <https://abcnews.go.com/Politics/trumps-words-contradict-claim-viewed-coronavirus/story?id=69662788>.

⁶ *Trump fends off criticism of 'hoax' remark after first US coronavirus death*, The Guardian (Feb. 29, 2020), <https://www.theguardian.com/world/2020/feb/29/joe-biden-trump-coronavirus-hoax-claim>.

⁷ *Trump calls coronavirus Democrats' 'new hoax'*, NBC News (Feb. 28, 2020), <https://www.nbcnews.com/politics/donald-trump/trump-calls-coronavirus-democrats-new-hoax-n1145721>.

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And if the President did indeed mean to refer to the Democrats' response, **the words omitted by the advertisement do not make that any clearer.** In the full quote above, Mr. Trump says "Coronavirus. They're politicizing it. We did one of the great jobs." He then goes on to discuss other subjects, and then argues that "it's all turning. Think of it. Think of it. And this is their new hoax." If he meant to refer to the argument that his administration did not perform well as the "hoax" and not Covid-19 itself, that is not made plain by his full words. The only noun that "this" could refer to is "coronavirus."

As the president and a candidate for public office, Mr. Trump is a public figure. He has a guaranteed right of reasonable access to advance and explain his own record and views on issues of public importance. Despite what he might think, that group has no right to silence Priorities USA Action as it opposes Mr. Trump's views, criticizes his record on policy, and educates the public about his actions. Our client's ability to speak on such matters of public importance is at the heart of the First Amendment's protections. *Time, Inc. v. Hill*, 385 U.S. 374 (1967); *New York Times v. Sullivan*, 376 U.S. 254 (1964).

This is why the Federal Communications Commission has held that stations best meet their public interest obligations "by presenting contrasting views" and encouraging "robust, wide-open debate." *In re Complaint by Hon. Ronald Reagan*, 38 F.C.C.2d 314 (1972). It has consistently rejected invitations by political figures to "judge the truth or falsity of material being broadcast on either side of a currently controversial issue." *Id.*; accord *In re Complaint by Alan S. Burstein*, 43 F.C.C.2d 590 (1973); *In re Complaint by Patton Echols*, 43 F.C.C.2d 479 (1973).

There is no genuine dispute as to the accuracy of the claims in this advertisement. It is not false, deceptive, or misleading. By pressuring you to remove this ad, the Trump campaign is asking you to blatantly ignore Mr. Trump's own words and his administration's actions. Your decision to accept the advertisement should remain undisturbed. Please contact us promptly at (202) 434-1616 before this advertisement's schedule on your station changes in any way.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Ezra W. Reese', with a long, sweeping horizontal stroke extending to the right.

Ezra W. Reese

Rachel L. Jacobs

Jordan M. Movinski

Counsel to Priorities USA Action

EXHIBIT 6

March 26, 2020 | Press Release

Priorities USA Expands “Exponential Threat” Ad Buy to Arizona Following Trump Campaign’s Failed Challenge

On Wednesday, the Trump campaign sent letters to TV stations threatening their licenses if they continued to air the Priorities USA Action ad “**Exponential Threat**,” which holds Donald Trump accountable using his own words downplaying the threat of the coronavirus while the infection rates skyrocketed across the country. That intimidation effort failed and the ad is continuing to air across Florida, Michigan, Pennsylvania and Wisconsin.

Today, Priorities USA Action is expanding the buy into Arizona over the next few weeks with an initial \$600,000 investment. This investment is in addition to the \$6 million that Priorities USA Action announced it’s spending in other battleground states to hold Trump accountable for the disastrous impact of his failed response to the pandemic.

“Donald Trump spent weeks downplaying the threat of the coronavirus and his inaction left the country unprepared for this crisis. Even today, his lies are putting the health of millions of Americans at risk,” said **Guy Cecil, Chairman of Priorities USA**. “The fact that Trump is going to such great lengths to keep the American people from hearing his own words adds to the urgency of communicating them far and wide. Trump doesn’t want voters to know the truth. We will not be intimidated. We’ll keep telling the truth and holding Donald Trump accountable.”



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EXHIBIT 7

March 27, 2020 | Press Release

Priorities USA Launches “Exponential Threat” Ads in Spanish, Running Digitally in Florida

On Wednesday, the Trump campaign sent [letters to TV stations](#) threatening their licenses if they continued to air the Priorities USA Action ad “[Exponential Threat](#),” which holds Donald Trump accountable using his own words downplaying the threat of the coronavirus while the infection rates skyrocketed across the country.

That intimidation effort failed. The ad is continuing to air across Florida, Michigan, Pennsylvania and Wisconsin, and yesterday Priorities USA Action expanded into Arizona with a \$600,000 buy beginning this week.

Today, Priorities USA Action is launching the ad digitally in Spanish, to reach Latino communities in Florida.

You can see the “Exponential Threat” ads in Spanish [here](#) and [here](#).

“The Trump campaign is doing all they can to prevent us from hearing Trump’s own words as he downplayed and mismanaged this crisis, leaving us all at risk. But Latino communities will not fall for his lies,” said **Daniela Martins, Hispanic Media Director of Priorities USA**. “We will not be intimidated, and we will continue our work to ensure that Latinos know the truth, and can hold this president accountable for the risk he has left us in.”



[Home](#)

[About](#)

EXHIBIT 8

April 1, 2020 | Press Release

Priorities USA Action Extends and Expands Ad Buy, Launches Biden vs. Trump Contrast Ads

In response to America First Action announcing a \$10 million ad buy, Priorities USA Action is expanding its original \$6.6 million television and digital ad buy holding Donald Trump accountable for his failed response to the coronavirus pandemic and beginning to air “[Better Prepared](#),” a spot contrasting the chaotic failed leadership of Donald Trump with the strong, steady leadership of Vice President Joe Biden. The spot will run alongside “[One Week Later](#),” which uses Trump’s own words to show how he downplayed the crisis even as the number of infections grew exponentially. The Trump campaign has tried and failed to block TV stations from running the first two coronavirus ads that Priorities USA Action has run.

As an initial step, Priorities is adding an additional \$1 million of ad time and extending by a week in Michigan, Pennsylvania, and Wisconsin. Priorities is also adding more digital ad time across these battleground states and Florida. Priorities is already running a contrast spot, “[Steady Leadership](#),” online.

“Trump is failing the country as a leader during the biggest crisis of our lives. It has always been inevitable that the Trump team would attempt to cover up his dangerous incompetence by attacking Joe Biden,” said **Guy Cecil, Chairman of Priorities USA**. “With Donald Trump’s super PAC stepping into this race, we will not let Vice President Biden go undefended. We will do whatever we can to both hold Trump accountable during this time of crisis and help Joe Biden get elected in November.”

[Home](#)

EXHIBIT B

Thread

 Search Twitter

Explore

 Settings**Will Saletan**
@saletan

Trump's use of "hoax" tonight (7:45 in this video) referred to what he said a minute earlier: "The Democrats are politicizing the coronavirus. ... We did one of the great jobs."

He was saying the hoax is that he's handled it badly.
Not the virus itself. cs.pn/389i5mn

9:49 PM · Feb 28, 2020 · Twitter Web App

133 Retweets 439 Likes

Relevant people

Will Saletan
@saletan**Follow**

National Correspondent, @Slate.
Question everything.

Trends for you

Trending in United States



EXHIBIT C



TRENDING

FACT CHECK: DID TRUMP CALL THE CORONAVIRUS A 'HOAX' AT HIS SOUTH CAROLINA RALLY?

6:54 PM 02/29/2020 **Brad Sylvester | Fact Check
Reporter**



**FACT CHECK: Did Nostradamus Predict The
Coronavirus Outbreak?**

**FACT CHECK: Does A Bill Gates-Funded Research
Institute Own The Patent For Coronavirus?**

Politico published an **article** claiming President Donald Trump called the novel coronavirus a “hoax” at his Feb. 28 campaign rally in South Carolina.



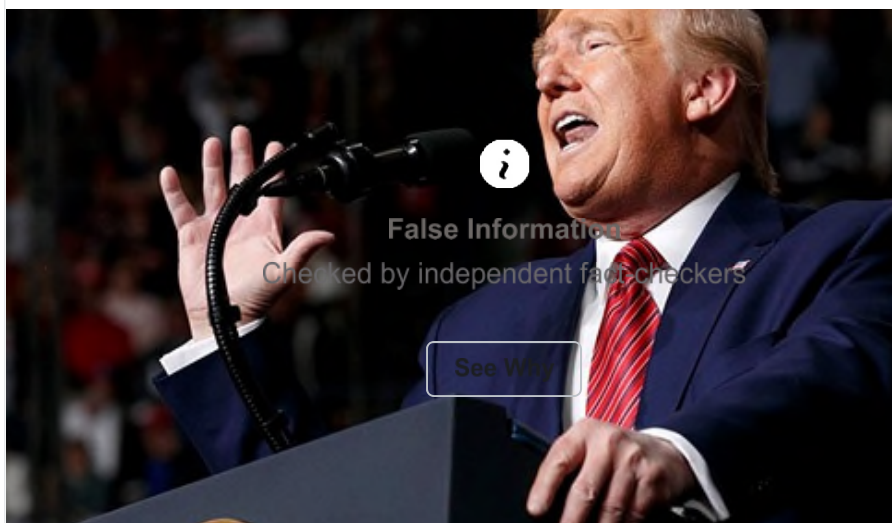
FACT CHECK: Viral Image Claims To Show Train Car With COVID-19 Marking



POLITICO

about a month ago

President Trump on Friday night tried to cast the global outbreak of the coronavirus as a liberal conspiracy intended to undermine his first term, lumping it alongside impeachment and the Mueller investigation.



FACT CHECK: Is PepsiCo Discontinuing Its Mountain Dew Product Line?

POLITICO.COM

Trump rallies his base to treat coronavirus as a ‘hoax’

At South Carolina rally on the eve of the Democratic primary, the presi

748

2.9K

8.4K

"Trump rallies his base to treat coronavirus as a 'hoax,'" reads the headline.



Verdict: False

Trump referred to the alleged "politicizing" of the coronavirus by Democrats as "their new hoax." He did not refer to the coronavirus itself as a hoax. Throughout the speech, Trump reiterates his administration is taking the threat of the coronavirus seriously.

Fact Check:

Politico appears to misconstrue the subject of the president's statement, **claiming** that Trump "tried to cast the global outbreak of the coronavirus as a liberal conspiracy intended to undermine his first term." But an **examination** of the video and transcript show Trump actually described Democratic complaints about his handling of the virus threat as "their new hoax."

"We have exposed the far left's corruption and defeated their sinister schemes and let's see what happens in the coming months," Trump **said** during the rally. "Let's watch. Let's just watch. Very dishonest people. Now the Democrats are politicizing the coronavirus, you know that right? Coronavirus, they're politicizing it."

The novel coronavirus, known as COVID-19, has spread from China to 53 other countries, sickening 85,403 people and killing 2,924 others as of Saturday, according to the [World Health Organization](#).



Some Democrats, including former New York City Mayor Michael Bloomberg and former Vice President Joe Biden, have [criticized](#) the administration's response to the outbreak as rudderless and ill-prepared due to Centers for Disease Control and National Institutes of Health budget cuts and leadership by Trump. But [The Associated Press](#) called this characterization "distorted" since the agencies haven't seen loss of funding and have a "playbook to follow for pandemic preparation" regardless of who's president.

Trump [described](#) the so-called "politicizing" of the White House's response to the disease as what he perceives to be an attempt to undermine his administration, likening it to impeachment and the Mueller investigation. **(RELATED: Are There 8 Confirmed Coronavirus Cases In Nashville?)**

"They tried anything," said Trump about a minute after his [first mention](#) of the coronavirus. "They tried it over and over. They'd been doing it since you got in. It's all turning. They lost. It's all turning. Think of it. Think of it. And this is their new hoax."

When looking at the entirety of Trump's remarks, it appears the "new hoax" comment refers to the alleged Democratic "politicizing" of his response to the coronavirus threat – not the coronavirus itself. **The Hill**, the **Daily Beast** and **Slate**, among other outlets, reported that the "hoax" comment was talking about Democratic criticism.



Slate said, "**Trump Slams Democrats Over Coronavirus Criticism: 'This Is Their New Hoax,'**" while the Daily Beast posted, "**Trump: Democrats' Coronavirus Criticism A 'New Hoax.'**"

At no point in the rally does Trump directly call the novel coronavirus outbreak a "hoax" or "conspiracy." In fact, he **refers** to the respiratory virus as a "public health threat" and reiterates "we have to take it very, very seriously. That's what we're doing. We are preparing for the worst."

Trump **denied** that he called the coronavirus a "hoax" in a Feb. 29 press conference. He said he was "referring to the action that they take to try and pin this on somebody because we've done such a good job. The hoax is on them. I'm not talking about what's happening here. I'm talking what they're doing. That's the hoax," **according to** NBC News.

The president and Vice President Pence, who has been placed in charge of the administration's response to the outbreak, **announced** new travel restrictions involving Iran and increased travel advisories for Italy and South Korea at the press conference as well. The new measures come after Washington health officials announced the **first death in the U.S.** from the novel coronavirus.



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EXHIBIT D

[Fact Checks](#) › [Politics](#)

Did President Trump Refer to the Coronavirus as a 'Hoax'?

Trump's commentary on the new coronavirus came before the virus began killing patients in the U.S.

BETHANIA PALMA

PUBLISHED 2 MARCH 2020

Claim

U.S. President Donald Trump referred to the new coronavirus as a "hoax."

Rating





Mixture

[About this rating](#)

What's True

During a Feb. 28, 2020, campaign rally in South Carolina, President Donald Trump likened the Democrats' criticism of his administration's response to the new coronavirus outbreak to their efforts to impeach him, saying "this is their new hoax." During the speech he also seemed to downplay the severity of the outbreak, comparing it to the common flu.

What's False

Despite creating some confusion with his remarks, Trump did not call the coronavirus itself a hoax.

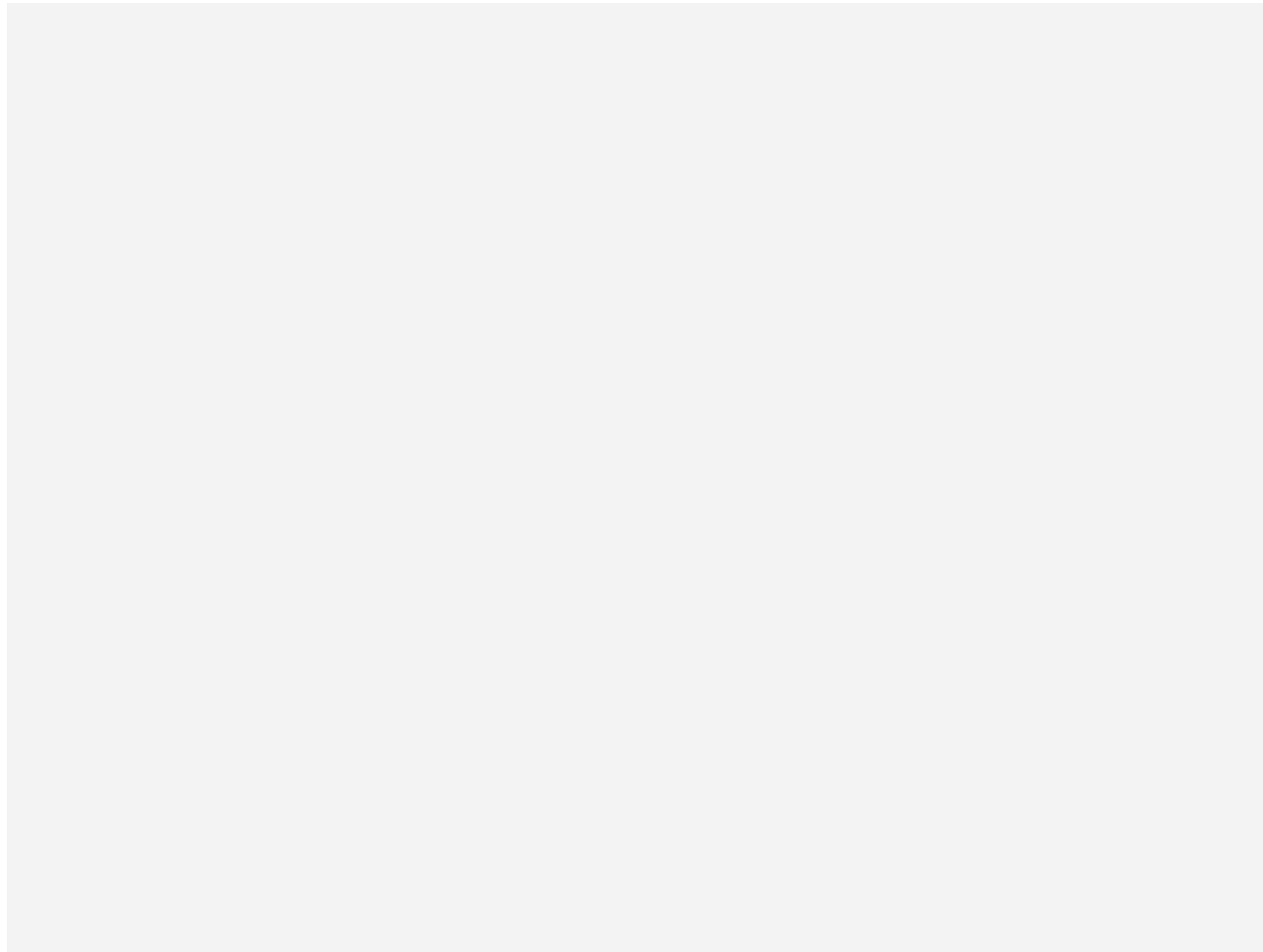
▲

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Origin

On the last Friday of February 2020, U.S. President Donald Trump held a campaign rally in South Carolina and made comments during a speech in which he accused Democrats of “politicizing” the coronavirus outbreak that left many with the impression that he had referred to the virus itself as a “hoax.”

Various news media outlets and personalities reported that he did so, including syndicated columnist Dana Milbank, who **tweeted**:



Likewise, Politico ran a story headlined “Trump rallies his base to treat coronavirus as a ‘hoax.’” And in an article headlined “Trump calls coronavirus Democrats’ ‘new hoax,’” NBC News correspondent Lauren Egan wrote: “President Donald Trump accused Democrats of ‘politicizing’ the deadly coronavirus during a campaign rally here on Friday, claiming that the outbreak is ‘their new hoax’ as he continued to downplay the risk in the U.S.”

These prompted inquiries from Snopes readers who asked us to verify the accuracy of the claim.

Trump held the rally on Feb. 28 on the eve of the South Carolina Democratic primary, which former Vice President Joe Biden ultimately **won**. During his roughly one-hour, 20-minute commentary, Trump hit back at his political opponents in the Democratic Party for their critiques of his administration's handling of a potential pandemic.

Here are Trump's **exact words** on the topic at the South Carolina rally:

Now the Democrats are politicizing the coronavirus. You know that, right? Coronavirus. They're politicizing it. We did one of the great jobs. You say, 'How's President Trump doing?' They go, 'Oh, not good, not good.' They have no clue. They don't have any clue. They can't even count their votes in Iowa, they can't even count. No they can't. They can't count their votes.

One of my people came up to me and said, 'Mr. President, they tried to beat you on Russia, Russia, Russia. That didn't work out too well. They couldn't do it. They tried the impeachment hoax. That was on a perfect conversation. They tried anything, they tried it over and over, they've been doing it since you got in. It's all turning, they lost, it's all turning. Think of it. Think of it. And this is their new hoax. But you know, we did something that's been pretty amazing. We're 15 people [cases of coronavirus infection] in this massive country. And because of the fact that we went early, we went early, we could have had a lot more than that.

In context, Trump did not say in the passage above that the virus itself was a hoax. He instead said that Democrats' criticism of his administration's response to it was a hoax. He muddied the waters a few minutes later, however, by comparing the number of coronavirus fatalities in the U.S. (none, at that point in time) to the number of fatalities during an average flu season, and accusing the press of being in "hysteria mode":

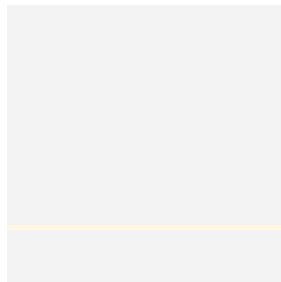
So a number that nobody heard of that I heard of recently and I was shocked to hear it, 35,000 people on average die each year from the flu. Did anyone know that? 35,000. That's a lot of people. It could go to 100,000, it could be 27,000, they say usually a minimum of 27, it goes up to 100,000 people a year who die, and so far we have lost nobody to coronavirus in the United States. Nobody. And it doesn't mean we won't, and we are totally prepared, it doesn't mean we won't. But think of it. You hear 35 and 40,000 people, and we've lost nobody, and you wonder, the press is in hysteria mode.

For his part, Trump later **defended** his comments by stating he was indeed calling out the Democrats' efforts to blame him and his administration for what they have characterized as an **inadequate** response "because we've done such a good job."

Trump did however downplay the scale of the virus and the danger it posed to the public. At the time he made his remarks, the U.S. had 57 confirmed coronavirus cases, 40 of which came from the Diamond Princess cruise ship, which experienced an outbreak of the virus. And health officials were warning that the spread of the virus domestically was **"inevitable."**

The novel coronavirus infection has been a fast-moving crisis. Just hours after Trump's rally in South Carolina, the U.S. had its **first** coronavirus death. As of this writing, **six people** in the U.S. have died from the COVID-19, the disease caused by coronavirus. Globally, more than 80,000 cases have been identified and 3,000 people have died, while experts have warned the outbreak of the virus could become a **pandemic**.

Although Trump made a reference to seasonal flu death rates, COVID-19, which was first detected in the winter of 2019 in Wuhan, China, appears so far to be **more lethal**. And because the virus is **new**, no vaccine or treatment exists for it.



Become a member!

EXHIBIT E

The Washington Post

Democracy Dies in Darkness



Biden ad manipulates video to slam Trump

By **Meg Kelly**

March 13, 2020 at 2:00 a.m. CDT

“I’ll be damned if I’m going to lose my country to this man at all.”

— **former vice president Joe Biden, in a campaign ad, tweeted March 3, 2020**

An onslaught of political advertising is par for the course in any election year. The 2020 presidential contest proves to be no exception.

So, on first glance, nothing was unusual when former vice president Joe Biden, who appears to be on track for the Democratic nomination, took a swing at President Trump. On March 3, he tweeted a video with the caption, “We can’t sit by and lose this country to Donald Trump. Today, we take it back — together.” However, while the caption is standard political rhetoric, the attached video included two clips of the president that meet the Fact Checker’s standards for manipulated video. Our guide includes three broad categories: Some video is taken out of context; other content is deceptively edited; or, in the worst instances, it is deliberately altered.

AD

Earlier this week, we examined three videos -- including one by the Trump campaign -- that met our standards for manipulated video. But the Biden campaign isn't shy about playing the same game of video trickery.

The Facts

The video begins with Biden at a campaign rally, saying, "I'll be damned if I'm going to lose my country to this man at all." Over the next few seconds, the video shows a montage of intentionally unflattering clips of President Trump. So far, it looks like a standard Internet campaign ad.

At the 10-second mark, the camera shows a tight shot of the president saying "coronavirus" and then cuts to a wide shot where he says, "this is their new hoax." Both clips are from Trump's Feb. 28 campaign rally in North Charleston, S.C., but he never said "coronavirus, this is their new hoax." Rather, Biden's ad clipped a large part of Trump's speech to make it seem as though he had. Here's the president's full quote (emphasis added to show the omission):

AD

*“Now the Democrats are politicizing the coronavirus. You know that, right? **Coronavirus.** They’re politicizing it. We did one of the great jobs, you say, ‘How’s President Trump doing?’, ‘Oh, nothing, nothing.’ They have no clue, they don’t have any clue. They can’t even count their votes in Iowa, they can’t even count. No, they can’t. They can’t count their votes. One of my people came up to me and said, ‘Mr. President, they tried to beat you on Russia, Russia, Russia.’ That didn’t work out too well. They couldn’t do it. They tried the impeachment hoax. That was on a perfect conversation. They tried anything, they tried it over and over, they’ve been doing it since he got in. It’s all turning, they lost. It’s all turning, think of it, think of it. And **this is their new hoax.** But you know we did something that’s been pretty amazing. We have 15 people in this massive country and because of the fact that we went early, we went early, we could have had a lot more than that.”*

The full quote shows Trump is criticizing Democratic talking points and the media’s coverage of his administration’s response to coronavirus. He never says that the virus itself is a hoax, and although the Biden camp included the word “their,” the edit does not make clear to whom or what Trump is referring.

Moreover, at a news conference Feb. 29, the day after the rally and three days before Biden’s ad was released, Trump was asked about the “hoax” comment. He clarified, “ ‘Hoax’ referring to the action that [Democrats] take to try and pin this on somebody, because we’ve done such a good job. The hoax is on them, not -- I’m not talking about what’s happening here [the virus]; I’m talking what they’re doing. That’s the hoax. ... But the way they refer to it -- because these people have done such an incredible job, and I don’t like it when they are criticizing these people. And that’s the hoax. That’s what I’m talking about.”

AD

Granted, Trump and members of his administration have played down the spread of the virus and falsely touted the strength of their response, as our numerous fact checks have pointed out. But that does not excuse this kind of video manipulation. This is a clear example of deceptive editing, specifically what we label “omission,” according to our guide. It edits out large portions of a video but still presents it as a complete narrative. This effectively skews reality and leaves the viewer to wonder what or who related to coronavirus is, in fact, a hoax?

Just seven seconds later, the ad shows a video of Trump hugging the American flag. In the accompanying audio, Trump says “the American Dream.” Then, with no shortage of drama, there is a pause, a dip to black and a cropped, tight shot of then-candidate Trump saying the words “is dead.”

The second clip and the audio appear to be from Trump’s June 2015 announcement that he would, in fact, run for president. Throughout the 2016 campaign, Trump repeated the phrase “the American Dream is dead.” However, each time — including during his announcement — the then-candidate followed that line with some variation of: “If I get elected president I will bring it back bigger and better and stronger than ever before, and we will make America great again.”

AD

The message is unarguably bleak, but by failing to include the second half of Trump's repeated line, it isolates the comment from the context of Trump's political argument. Moreover, the ad does not make clear that the clip is nearly five years old, ignoring the difference between when a candidate and a sitting president makes a provocative, political statement like this.

This is an example of "Missing Context": The video is unaltered, but the way it is presented to the viewer lacks or misstates the context in which events occurred. In this specific case, this is an example of what we labeled as "isolation" — a brief clip from a longer video to create a false narrative that does not reflect the event as it occurred.

Andrew Bates, a spokesman for Biden's campaign, defended the ad. "Donald Trump is the most dishonest president in American history and one of the least credible human beings in the world," Bates said. "We don't trust his next-day cleanup attempt, and he has made many comments in that same vein. And the claim that the American Dream was 'dead' in the final year of the Obama administration -- during the longest streak of job growth in American history -- is categorically untrue and another reminder of Donald Trump's deep cynicism."

AD

The Pinocchio Test

Biden's ad presents two separate and distinctly different examples of manipulated video.

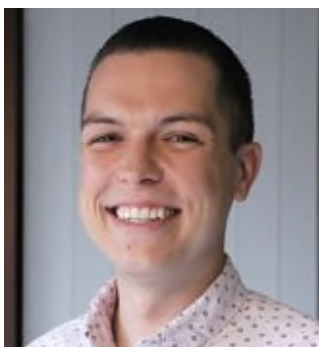
While the first, "coronavirus, this is their new hoax," is a clear example of omission, we were torn between Three and Four Pinocchios. On one hand, the administration continues to promote falsehoods about the virus and vilify Democrats for criticizing its response. However, the video doesn't point that out or explain what is wrong with this characterization. Rather, it just puts the words "coronavirus and "hoax" close together, leaving the viewer to assume Trump meant that the novel coronavirus itself was a hoax.

The second example is far more straightforward. The ad isolates Trump's comment with no context.

Ultimately, the seriousness of the coronavirus outbreak, the fact that Trump had clarified his comments on the matter before the ad was released, and the blatant way the Biden camp isolated his remarks about the American Dream pushed us to Four Pinocchios. Campaigns must be willing to make their case without resorting to video manipulation.

Four Pinocchios

EXHIBIT F



By [Daniel Funke](#) March 15, 2020

Ad Watch: Biden video twists Trump's words on coronavirus

If Your Time is short

- The video makes it look like Trump called coronavirus “their new hoax.”
- In fact, there was nearly a full minute between when the president said “coronavirus” and “hoax” during a Feb. 28 rally in North Charleston, S.C.

[See the sources for this fact-check](#)

In a video [tweeted](#) March 3, Joe Biden's campaign made it look like President Donald Trump called the 2019 coronavirus outbreak a "hoax."

"I'll be damned if I'm going to lose my country to this man at all," Biden says at the start of the ad, which has been viewed more than 336,000 times.

The video cycles through a slew of soundbites from Trump. One clip shows the president's [Feb. 28 rally](#) in North Charleston, S.C.

"Coronavirus — this is their new hoax," Trump is pictured saying.

The video makes it seem like Trump is calling the disease itself a hoax, which he hasn't done. The words are Trump's, but the editing is Biden's.

During the North Charleston rally, there was nearly [a minute](#) between when Trump said "coronavirus" and "hoax." Here is the [full context](#) of his remarks:

"Now the Democrats are politicizing the coronavirus, you know that right? Coronavirus, they're politicizing it. We did one of the great jobs. You say, 'How's President Trump doing?' They go, 'Oh, not good, not good.' They have no clue. They don't have any clue. They can't even count their votes in Iowa. They can't even count. No, they can't. They can't count their votes.

"One of my people came up to me and said, 'Mr. President, they tried to beat you on Russia, Russia, Russia.' That didn't work out too well. They couldn't do it. They tried the impeachment hoax. That was not a perfect conversation. They tried anything. They tried it

over and over. They'd been doing it since you got in. It's all turning. They lost. It's all turning. Think of it. Think of it. And this is their new hoax."

During a press conference Feb. 29, Trump was asked about his remarks.

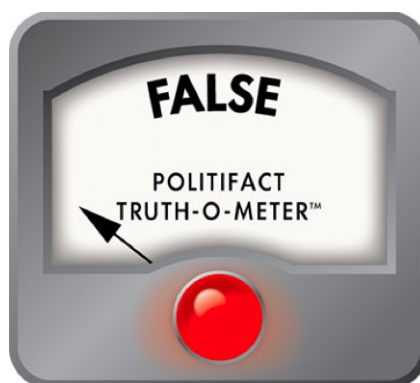
Featured Fact-check



[Viral image](#)

stated on March 12, 2020 in a Facebook post

[Says Tom Hanks has a volleyball to keep him company while he's quarantined.](#)



By Ciara O'Rourke • March 12, 2020

"I'm not talking about what's happening here; I'm talking what they're doing," he said, referring to Democrats. "That's the hoax."

Trump's comments feed into [a conspiracy theory](#) that claims Democrats and the media are fabricating the threat of COVID-19 to hurt the economy and, by extension, the president's re-election chances. And the president appeared [to downplay](#) the threat of the virus at several points in recent weeks.

But the Biden campaign's ad is misleading. It's an example of [what the Washington Post calls](#) "splicing," or "editing together disparate videos" that "fundamentally alters the story that is being told."

RELATED: [Fact-checking Donald Trump's mistakes about European travel due to coronavirus](#)

Biden's ad is the latest example of a deceptively edited ad on the campaign trail.

On March 7, Dan Scavino, the White House social media director, [tweeted a video](#) that appears to show Biden saying "we can only re-elect Donald Trump." But the video only showed a snippet of Biden's larger speech, in which he called for Democratic unity. [A similar video](#) tweeted by Michael Bloomberg on Feb. 20 made it look like he left other Democratic presidential candidates speechless during a debate when he didn't.

When we reached out to the Biden campaign for comment, it told us that Trump is "the most dishonest president in American history."

"We don't trust his next-day clean-up attempt, and he has made many comments in that same vein," said Andrew Bates, a spokesman for the Biden campaign, in an email.

Biden's video is inaccurate. We rate it False.

Our Sources

Emailed statement from Andrew Bates, spokesman for the Biden campaign, March 13, 2020

Factba.se, [Press Conference: Donald Trump Delivers an Update on the Coronavirus - February 29, 2020](#)

Politico, ["Trump rallies his base to treat coronavirus as a 'hoax,'" Feb. 28, 2020](#)

PolitiFact, ["Bloomberg's edited video of the Las Vegas Democratic debate, in context," Feb. 20, 2020](#)

PolitiFact, ["Rush Limbaugh is spreading a conspiracy theory about the coronavirus and Trump's re-election," Feb. 27, 2020](#)

PolitiFact, "[Video shared by Trump omits full context of Biden's comments](#)," March 9, 2020

Rev, "[Donald Trump Charleston, South Carolina Rally Transcript – February 28, 2020](#)," Feb. 28, 2020

The Washington Post, "[The Fact Checker's guide to manipulated video](#)," accessed March 13, 2020

[Tweet](#) from Joe Biden, March 3, 2020

Twitter, [Synthetic and manipulated media policy](#), accessed March 13, 2020

[YouTube video](#) from WLTX, Feb. 28, 2020

Read About Our Process



[The Principles of the Truth-O-Meter](#)

Browse the Truth-O-Meter

More by Daniel Funke

EXHIBIT G



Alex W. Cannon
Special Counsel

March 25, 2020

VIA FEDEX AND E-MAIL

[REDACTED]

Re: False, Misleading, and Deceptive Priorities USA Action Fund Ad

Dear [REDACTED]:

On behalf of Donald J. Trump for President, Inc., President Trump's principal campaign committee, this letter notifies you that your station is airing a patently false, misleading, and deceptive advertisement, entitled "Exponential Threat," which was paid for by the Priorities USA Action Fund ("PUSA"), a Super PAC formed by Barack Obama loyalists. PUSA stitched together fragments from multiple speeches by President Trump to fraudulently and maliciously imply that President Trump called the coronavirus outbreak a "hoax." As fully set forth in the enclosed facts sheet, and President Trump's full quote below, the facts show beyond reasonable doubt that he was talking about the Democrat's politicization of the outbreak when he used the word "hoax." Multiple independent fact checkers have debunked the exact same false claim made in a Biden campaign ad. Because PUSA's ad's central point is deliberately false and misleading, your station has an obligation to cease and desist from airing it immediately to comply with FCC licensing requirements, to serve the public interest, and to avoid costly and time-consuming litigation.

First and foremost, President Trump's own remarks demonstrate that he was referring to the Democrat's politicization of the coronavirus outbreak when he used the word "hoax":

Now the Democrats are politicizing the coronavirus. You know that, right? Coronavirus. They're politicizing it. We did one of the great jobs, you say, "How's President Trump doing?", "Oh, nothing, nothing." They have no clue, they don't have any clue. They can't even count their votes in Iowa, they can't even count. No, they can't. They can't count their votes. One of my people came up to me and said, "Mr. President, they tried to beat you on Russia, Russia, Russia." That didn't work out too well. They couldn't do it. They tried the impeachment hoax. That was on a perfect conversation. They tried anything, they tried it over and over, they've been doing it since he got in. It's all turning, they lost. It's all turning, think of it, think of it. And this is their new hoax. But you know we did something that's been pretty amazing. We have 15 people in this

massive country and because of the fact that we went early, we went early, we could have had a lot more than that.

(President Donald J. Trump, Remarks at a Campaign Rally, Charleston, SC, 2/28/20).¹ When the relevant language is taken in context, it is abundantly clear that President Trump was not calling the outbreak a hoax but rather was referring to the Democrat's falsification of his record in an attempt to discredit his Presidency.

Moreover, multiple independent fact-checking organizations have debunked the core claim of the PUSA ad: that President Trump referred to the coronavirus outbreak as a hoax. According to The Washington Post Fact Checker, checking a Biden campaign ad, "[t]he full quote shows Trump is criticizing the Democrat's talking points and the media's coverage of his administration's response to coronavirus. He never says that the virus itself is a hoax." (Meg Kelly, *Biden Ad Manipulates Video to Slam Trump*, The Washington Post, 3/13/20).² In fact, The Washington Post Fact Checker gave four Pinocchios (its highest rating for false information) to a similar claim, made in a Biden campaign ad. In so doing, The Fact Checker stated, "Ultimately, the seriousness of the coronavirus outbreak, the fact that Trump had clarified his comments on the matter before the ad was released, and the blatant way the Biden camp isolated his remarks about the American Dream pushed us to Four Pinocchios. Campaigns must be willing to make their case without resorting to video manipulation." *Id.* Similarly, FactCheck.Org stated that Democrats "wrongly accused[d] President Trump of describing the coronavirus as a hoax." (Rem Rieder, *Trump and the 'New Hoax'*, FactCheck.Org, 3/3/20).³ Check Your Fact,⁴ Snopes,⁵ and Politifact⁶ have each published a piece debunking attempts by Democrats to mislead the public into thinking that President Trump called the outbreak a hoax.

Tellingly, PUSA's ad provides no citations of support for its false claims. The record is incontrovertible – PUSA can point to nothing fact-based to support its contention that President Trump called the coronavirus itself a "hoax". It is, however, a fact that multiple fact-checking organizations have unequivocally debunked the idea that President Trump called the coronavirus outbreak a hoax. As such, PUSA's advertisement is false, misleading, and deceptive, and we formally demand that your station refuse

¹ Available at <https://www.c-span.org/video/?469663-1/president-trump-campaign-event-north-charleston-south-carolina&start=405>.

² Available at <https://www.washingtonpost.com/politics/2020/03/13/biden-ad-manipulates-video-slam-trump/>.

³ Available at <https://www.factcheck.org/2020/03/trump-and-the-new-hoax/>.

⁴ Brad Sylvester, *Fact Check: Did Trump Call the Coronavirus A "Hoax" At His South Carolina Rally?* Check Your Fact, 2/29/20, available at <https://checkyourfact.com/2020/02/29/fact-check-donald-trump-coronavirus-hoax-south-carolina-rally/> ("Verdict: False. Trump referred to the alleged 'politicizing' of the coronavirus by Democrats as 'their new hoax.' He did not refer to the coronavirus itself as a hoax. the speech, Trump reiterates his administration is taking the threat of the coronavirus seriously.").

⁵ Bethania Palma, *Did President Trump Refer To The Coronavirus as a "Hoax"?*, Snopes, 3/2/20, available at <https://www.snopes.com/fact-check/trump-coronavirus-rally-remark/> ("In context, Trump did not say in the passage above that the virus itself was a hoax. He instead said that Democrats' criticism of his administration's response to it was a hoax.").

⁶ Daniel Funke, *Ad Watch: Biden Video Twists Trump's Words On Coronavirus*, PolitiFact, 3/15/20, available at <https://www.politifact.com/factchecks/2020/mar/15/joe-biden/ad-watch-biden-video-twists-trumps-words-coronavir/> ("The video makes it seem like Trump is calling the disease itself a hoax, which he hasn't done. The words are Trump's, but the editing is Biden's. During the North Charleston rally, there was nearly a minute between when Trump said 'coronavirus' and 'hoax.' . . . But the Biden campaign's ad is misleading. It's an example of what the Washington Post calls 'splicing,' or 'editing together disparate videos' that 'fundamentally alters the story that is being told.'").

to continue airing it to meet your responsibilities not to broadcast false information. Unlike candidate committees, PUSA does not have a “right to command the use of broadcast facilities.” *CBS v. DNC*, 412 U.S. 94, 113 (1973). Your station therefore bears responsibility for the ad’s content. *See Felix v. Westinghouse Radio Stations*, 186 F.2d 1, 6 (3d Cir. 1950). In addition, your station has a responsibility to “protect the public from false, misleading or deceptive advertising,” *Licensee Responsibility With Respect to the Broadcast of False, Misleading or Deceptive Advertising*, 74 F.C.C.2d 623 (1961), and your failure to remove this deceptive ad may be “probative of an underlying abdication of licensee responsibility” that could put your station’s license in jeopardy,” *Cosmopolitan Broadcasting Corporation v. FCC*, 581 F.2d 917, 927 (1978).

Given the foregoing, should you fail to immediately cease broadcasting PUSA’s ad “Exponential Threat”, Donald J. Trump for President, Inc. will have no choice but to pursue all legal remedies available to it in law and in equity; we will not stand idly by and allow you to broadcast false, deceptive, and misleading information concerning President’s Trump’s healthcare positions without consequence. This letter is without prejudice to Donald J. Trump for President, Inc.’s rights, remedies, and defenses, all of which are hereby expressly reserved.

Sincerely,

A handwritten signature in black ink, appearing to read 'Alex Cannon', written in a cursive style.

Alex W. Cannon, Esq.
Special Counsel
Donald J. Trump for President, Inc.

cc: Michael Glassner, Chief Operating Officer, Donald J. Trump for President, Inc.

[REDACTED]

enclosure

Updated: March 25, 2020

Charge: President Trump Called Coronavirus A "Hoax"

At Least 5 Independent Fact Checkers Have Debunked This Claim

The Washington Post Fact Checker: "The Full Quote Shows Trump Is Criticizing Democratic Talking Points And The Media's Coverage Of His Administration's Response To Coronavirus. He Never Says That The Virus Itself Is A Hoax." (Meg Kelly, "Biden Ad Manipulates Video To Slam Trump," [The Washington Post](#), 3/13/20)

- ***The Washington Post Fact Checker Gave Joe Biden's Campaign Four Pinocchios For Manipulating Video To Claim That President Trump Called The Coronavirus A "Hoax."***
"Ultimately, the seriousness of the coronavirus outbreak, the fact that Trump had clarified his comments on the matter before the ad was released, and the blatant way the Biden camp isolated his remarks about the American Dream pushed us to Four Pinocchios. Campaigns must be willing to make their case without resorting to video manipulation." (Meg Kelly, "Biden Ad Manipulates Video To Slam Trump," [The Washington Post](#), 3/13/20)

FactCheck.Org: Democrats "Wrongly Accuse[d] Trump Of Describing The Coronavirus As A Hoax."
"But the following day, after the death of the first American from coronavirus in Washington state, Trump said that when he used the word 'hoax,' he was referring to Democrats finding fault with his administration's response to coronavirus, not the virus itself. Even after Trump explained his remarks, some Democrats — including former New York City Mayor Mike Bloomberg — continued to wrongly accuse Trump of describing the coronavirus as a 'hoax.'" (Rem Rieder, "Trump And The 'New Hoax,'" [FactCheck.Org](#), 3/3/20)

Check Your Fact: President Trump "Did Not Refer To The Coronavirus Itself As A Hoax." "Verdict: False. Trump referred to the alleged 'politicizing' of the coronavirus by Democrats as 'their new hoax.' He did not refer to the coronavirus itself as a hoax. the speech, Trump reiterates his administration is taking the threat of the coronavirus seriously." (Brad Sylvester, "Fact Check: Did Trump Call The Coronavirus A 'Hoax' At His South Carolina Rally?," [Check Your Fact](#), 2/29/20)

Snopes: "Trump Did Not Call The Coronavirus Itself A Hoax." "What's False: Despite creating some confusion with his remarks, Trump did not call the coronavirus itself a hoax . . . In context, Trump did not say in the passage above that the virus itself was a hoax. He instead said that Democrats' criticism of his administration's response to it was a hoax." (Bethania Palma, "Did President Trump Refer To The Coronavirus as a 'Hoax'?", [Snopes](#), 3/2/20)

PolitiFact: Trump Did Not Call "The Disease Itself A Hoax," And Video That Is Edited To Make It Appear So Is "Misleading." "The video makes it seem like Trump is calling the disease itself a hoax, which he hasn't done. The words are Trump's, but the editing is Biden's. During the North Charleston rally, there was nearly a minute between when Trump said 'coronavirus' and 'hoax.' ... But the Biden campaign's ad is misleading. It's an example of what the Washington Post calls 'splicing,' or 'editing together disparate videos' that 'fundamentally alters the story that is being told.'" (Daniel Funke, "Ad Watch: Biden Video Twists Trump's Words On Coronavirus," [PolitiFact](#), 3/15/20)

Reporters And Commentators Have Reiterated This Point

CBS News' Scott Pelley Pointed Out That President Trump Said The Media & Democrat Hysteria About The Government Coronavirus Response Was A Hoax, Not The Virus. MIKE BLOOMBERG: "I find it incomprehensible that the president would do something as inane as calling it a hoax, which he did last night in South Carolina." SCOTT PELLEY: "He said the democrats making so much of it is a democratic hoax, not that the virus was a hoax." (CBS's Face The Nation, 3/1/20)

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Slate's Will Saletan Explained That President Trump Was Saying "The Hoax Is That He's Handled It Badly. Not The Virus Itself." "Trump's use of "hoax" tonight (7:45 in this video) referred to what he said a minute earlier: 'The Democrats are politicizing the coronavirus. ... We did one of the great jobs.' He was saying the hoax is that he's handled it badly. Not the virus itself." (Will Saletan, [Twitter](#), 2/28/20)

The President's Remarks Make Clear He Was Talking About The Politicization Of The Coronavirus Outbreak

During President Trump's February 28th Rally In Charleston, South Carolina, The President Said Democrats Are "Politicizing The Coronavirus." PRESIDENT DONALD TRUMP: "Now the Democrats are politicizing the coronavirus. You know that, right? Coronavirus. They're politicizing it. We did one of the great jobs, you say, 'How's President Trump doing?', 'Oh, nothing, nothing.' They have no clue, they don't have any clue." (President Donald J. Trump, [Remarks At A Campaign Rally](#), Charleston, SC, 2/28/20)

Further In His Remarks, President Trump Called The Democrats' And Media's Response To His Administration's Actions On The Coronavirus A Hoax, Not The Disease Or Virus Itself. PRESIDENT DONALD TRUMP: "One of my people came up to me and said, 'Mr. President, they tried to beat you on Russia, Russia, Russia.' That didn't work out too well. They couldn't do it. They tried the impeachment hoax. That was on a perfect conversation. They tried anything, they tried it over and over, they've been doing it since he got in. It's all turning, they lost. It's all turning, think of it, think of it. And this is their new hoax. But you know we did something that's been pretty amazing. We have 15 people in this massive country and because of the fact that we went early, we went early, we could have had a lot more than that." (President Donald J. Trump, [Remarks At A Campaign Rally](#), Charleston, SC, 2/28/20)

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The Next Day, President Trump Addressed The Hoax Claim During A News Conference, Where He Reiterated He Was Referring To The Actions Of The Democrats To Try And Pin The Virus On Somebody. “Moreover, at a news conference Feb. 29, the day after the rally and three days before Biden’s ad was released, Trump was asked about the ‘hoax’ comment. He clarified, “Hoax’ referring to the action that [Democrats] take to try and pin this on somebody, because we’ve done such a good job. The hoax is on them, not -- I’m not talking about what’s happening here [the virus]; I’m talking what they’re doing. That’s the hoax. ... But the way they refer to it -- because these people have done such an incredible job, and I don’t like it when they are criticizing these people. And that’s the hoax. That’s what I’m talking about.” (Meg Kelly, “Biden Ad Manipulates Video To Slam Trump,” [The Washington Post](#), 3/13/20)