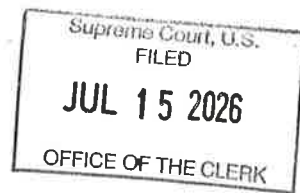


No. **26A133**



IN THE
SUPREME COURT OF THE UNITED STATES

In re J. E. PENDLETON,

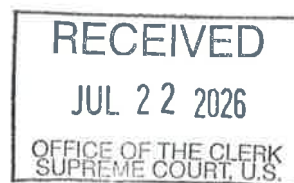
Applicant.

**TO THE HONORABLE SAMUEL ALITO,
CIRCUIT JUSTICE FOR THE FIFTH CIRCUIT**

EMERGENCY APPLICATION FOR A WRIT OF INJUNCTION

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July 15, 2026



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Respondents:

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“App” refers to the Appendix to this Petition, which also serves as the appellate record.

STATEMENT OF THE CASE

Nature of the Case: Applicant sued the Respondents, X Corp. and Elon Musk, owners and operators of X.com, under the common law of Texas and the Deceptive Trade Practices Act, for fraudulently misrepresenting the nature of their services. This Petition concerns Count III against Respondent Musk in his capacity as a federal official for tortious interference in violation of the Free Speech Clause of the First Amendment, alleging that Musk has censored Applicant’s account as part of a federal cover up.

Trial Court: 96th Judicial District of Tarrant County, Texas
Cause No. 096-375721-26, Hon. J. Patrick Gallagher

Disposition in the Trial Court: The trial court denied Applicant’s Rule 681 motion for an injunction on April 15, 2026, and dismissed all causes of action with prejudice on April 23, 2026.

Parties in the Court of Appeals: Applicant is the plaintiff-appellant in the Second Court of Appeals; Respondents are the defendant-appellees. The Second Court of Appeals denied Applicant’s interlocutory appeal for injunctive relief on May 6, 2026, with an *unsigned* per curiam order in No. 02-26-00243-CV. The appeal from the final order dismissing the case remains pending.

Disposition in the Supreme Court of Texas: The Texas Supreme Court denied this Petition without comment on July 3, 2026, in No. 26-0532.

STATEMENT OF JURISDICTION

The Court has jurisdiction under 28 U.S.C. § 1257 following the denial of Applicant's petition in the Supreme Court of Texas. See *National Socialist Party of America v. Skokie*, 432 U.S. 43, 97 S. Ct. 2205, 53 L. Ed. 2d 96 (1977).

TO THE HONORABLE JUSTICE SAMUEL ALITO:

The Applicant, J. E. Pendleton, asks this Court for a preliminary injunction to stop the Respondents from continuing to censor his speech on the social media website X.com in violation of the First Amendment of the U.S. Constitution. Such relief is necessary to avoid irreparable harm to Applicant's constitutional right to speak on urgent matters of public concern during the course of this litigation. Applicant is making an extraordinarily mild request that the Respondents — who have undisputed ties to the federal government — treat his account the same as any others similarly situated.

BACKGROUND

As explained in the original Petition, the Applicant is a U.S. citizen currently residing in Canada where he is seeking asylum as a person in need of protection from persecution under the Geneva Convention. The nexus of the asylum claim involves “government sanctioned defamation that has permanently impaired his livelihood, persistent threats of trumped-up charges from state and federal officials, and a risk of cruel and unusual punishment upon return.” *Pendleton v. Miyares, et al*, No. 23-7500 (U.S. Oct. 24, 2024).¹ See the Request For Judicial Notice (RJN) at App. M.

The necessary backstory begins in 2014 when Pendleton attempted a common law citizen's arrest of an economist at George Mason University,

¹ <https://www.supremecourt.gov/docket/docketfiles/html/public/23-7500.html>

Professor Tyler Cowen of Virginia, on reasonable suspicion of cyberstalking under 18 U.S.C. § 1030. As a result of this incident, Pendleton was acquitted “not guilty by reason of insanity” in Arlington County, Virginia, which decided in 2015 to have Pendleton involuntarily committed to a mental hospital where he was forced to accept several years of treatment for various illnesses he does not have.

In 2022, it was discovered that the Virginia laws that sent Pendleton to the hospital and detained him indefinitely without evidence have been unconstitutional for decades, in violation of the equal protection and due process holdings in *Foucha v. Louisiana*, 504 U.S. 71, 112 S. Ct. 1780, 118 L. Ed. 2d 437 (1992). When Pendleton began filing petitions challenging these laws, Virginia retaliated in a way that has rendered him largely unemployable, and for more than three years state and federal officials have colluded to prevent him from accessing the courts across multiple districts and appellate circuits. Being unable to work professionally, unable to access the courts, unable to retrieve his passport, and receiving threats from numerous government officials both on and off the record, Pendleton decided in August 2024 to seek refuge in Quebec, Canada.

On April 11, 2025, Pendleton filed suit for a second time against the FBI and State Department in the U.S. District Court for the District of Columbia under the Administrative Procedure Act and the Constitution for unlawful seizure of his passport, pleading that he is “not charged with a crime as a matter of fact, and

could not be charged with a crime as a matter of law.” *Pendleton v. United States, et al*, No. 01218 (D.C. 2025); ECF 1, ¶¶36-37.

That same month, the FBI responded to a Freedom of Information Act request with Pendleton’s original cyberstalking report from 2014 which identifies both Tyler Cowen and Alex Tabarrok (co-authors at www.marginalrevolution.com) (pg. 1), as well as Mark Thornton of the Mises Institute (pg. 4), as federal personnel under 5 U.S.C. § 552(b)(6) (“personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy”). See App. M (RJN Ex. C). All three of the people Pendleton identified as suspects involved in cyberstalking have turned out to be federal employees. This FOIA document makes Cowen’s 2014 testimony in Arlington, Virginia, concealing his relationship to Tabarrok and Thornton thoroughly impeachable — and the FBI has known this from the beginning.

Together with Cowen’s personal ties and business dealings with billionaire Peter Thiel, who manages CIA-backed Palantir Technologies, a federal contractor which sells exactly the same cyberstalking capabilities Pendleton was describing in 2014, an amended complaint filed in Washington, D.C., on August 10, 2025, alleges that these facts constitute proof that Pendleton is factually innocent of both “insanity” and the original charges. *Pendleton v. United States, et al*, No. 01218 (D.C. 2025); ECF 12. The amended complaint makes claims against Professor Cowen for ongoing suppression of exculpatory evidence in violation of the Due

Process Clause of the Fifth Amendment, and also names state and federal officials who are alleged to have conspired to violate the Equal Protection Clause of the Fourteenth Amendment, actionable under 42 U.S.C. § 1985(3). *Id.*

The Department of Justice failed to respond to the original complaint on October 14, 2025, as required by Fed. R. Civ. P. 12(a)(2). Pendleton then motioned for a preliminary injunction asking the court to enjoin the defendants from:

- (a) Reporting that Applicant is wanted for felonies he was acquitted of;
- (b) Reporting that Applicant is wanted for a misdemeanor that does not exist;
- (c) Attempting to prosecute Applicant under Va. Code §§ 19.2-182.3 *et seq.*, because these statutes violate the Equal Protection Clause after *Foucha v. Louisiana*, 504 U.S. 71, 112 S. Ct. 1780, 118 L. Ed. 2d 437 (1992).

On November 5, 2025, the court dismissed the entire case *sua sponte* for lack of subject matter jurisdiction, calling the claims “patently insubstantial,” akin to “bizarre conspiracy theories, ... fantastic government manipulations of a plaintiff’s will or mind, or ... supernatural intervention.” See RJN (appendix to **Exhibit F**).

On November 20, 2025, Pendleton filed an identical motion for an injunction in the D.C. Circuit, followed by an appeal brief on December 30, noting that the executive branch respondents had *defaulted* within the meaning of Fed. R. App. P. 15(b)(2) (“If the respondent fails to answer in [21 days], the court will enter judgment for the relief requested.”). Instead of returning Pendleton’s passport, the appellate panel ignored the motion and dismissed the appeal on

March 24, 2026 — because to the extent Applicant’s allegations were not “fantastic,” they did not set forth “a short and plain statement of the claim showing that the pleader is entitled to relief.” See RJN, **Ex. E-G** (Cf. *Ciralsky v. CIA*, 355 F.3d 661 (D.C. Cir. 2004)). Chief Justice Roberts also denied the same application on April 15, 2026,² and the Court is now *refusing to docket* a petition for certiorari mailed June 15.

These are the circumstances under which this cause was filed and in which the instant Petition concerning Pendleton’s right to speak on X.com comes before this Court. Applicant is surviving on the charitable assistance of a neighboring country, awaiting an asylum hearing in Canada where he is also unable to work professionally because Virginia is reporting that he is “criminally insane,” and still unable to travel because the FBI is reporting he is wanted for crimes he was tried and acquitted of 12 years ago — all in flagrant violation of the U.S. Constitution.

STATEMENT OF FACTS

This case was filed in Bastrop County on November 26, 2025, alleging that the Respondents, X CORP. and ELON MUSK, owners and operators of X.com, have violated the common law of Texas and the Deceptive Trade Practices Act (DTPA), Tex. Bus. & Comm. Code § 17.50(a)(1)(A), by fraudulently misrepresenting the services available on X.com (Counts I & II), and that

² *Pendleton v. United States, et al*, No. 25A1117 (U.S. 2026) (<https://www.supremecourt.gov/docket/docketfiles/html/public/25a1117.html>).

Respondent Musk, in his capacity as a “special government employee” of the federal government, has tortiously interfered with Applicant’s contractual relationship with X Corp. by having Pendleton preemptively censored in violation of the Free Speech Clause of the First Amendment (Count III). See Pet. at App. C.

On December 1, 2025, Plaintiff filed a request for a Rule 680 temporary restraining order, which the court never responded to.

On December 29, 2025, X Corp. filed a Motion To Transfer Venue to Tarrant County with reference to a forum selection clause in the X Terms of Service, along with an original answer listing affirmative defenses. App. D. Under the Civil Rules, this was a general appearance “so as to dispense with the necessity for the issuance or service of citation upon [them].” Tex. R. Civ. P. 121.

On January 6, 2026, counsel for X Corp. was served through the court’s e-filing system with Plaintiff’s Rule 681 Motion For A Permanent Injunction “to stop the Defendants from censoring Plaintiff’s speech on the social media website X.com,” which is the subject of this Petition. App. E.³

On January 8, 2026, X Corp. filed Objections To Injunctive Relief, Ex Parte Relief, and Lack of Bond — claiming that Musk had not been served, that the X Terms of Service bars relief, and asking for a delay of more than 45 days together with a \$10,000 bond. App. F.

³ Despite the title, the Motion is, in substance, a request for *temporary* injunctive relief “during the course of this litigation,” App. E, and “until further order” App. K. See generally *Qwest Communications Corp. v. AT&T Corp.*, 24 S.W.3d 334 (Tex. 2000).

On January 12, 2026, Plaintiff filed a Reply reiterating that prior restraints on political speech are definitionally irreparable injuries, that any limitations on liability are expressly forbidden by the DTPA, that injunction orders against X Corp. may be binding upon “officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise,” Tex. R. Civ. P. 683, and that Applicant was exempt from the bond requirement under Tex. Civ. Prac. & Rem. Code § 65.042(b) having filed a Statement of Inability to Afford Payment of Court Costs. App. G.

On January 19, 2026, Plaintiff requested appearance by video conference or other electronic means pursuant to Tex. R. Civ. P. 21d(b)(1), noting that good cause exists under Rule 21d(e)(7) because Pendleton resides in Canada where he is seeking protection from persecution under the Geneva Convention, and lacks both a travel document and the financial means to travel to Texas. The proposed order was denied by the Bastrop County district court by simply deleting it.

On January 29, 2026, Plaintiff filed a Petition For A Writ of Mandamus in the Third Court of Appeals pleading that the district court had arbitrarily prevented him from accessing the court in violation of the open courts and due process provisions of the Texas Constitution, Article I, §§ 13, 19. The appellate court also did not provide any meaningful response.

Thus, Applicant was not heard on the January 6 Motion for an injunction, and Bastrop County then erroneously granted the Motion to Transfer Venue to Tarrant County on March 4, 2026, at a hearing Pendleton was not allowed to attend.

After the case was transferred, Applicant filed another proposed order for a First Amendment injunction on March 30, 2026 (App. K), along with a letter pursuant to Local Rule 3.06(b) explaining that “a conference was not held with opposing counsel ... because ... the Defendants have already registered their opposition to allowing Plaintiff to speak on X.com by filing objections on January 8, and filing a motion to dismiss on February 4, 2026, which argues that freedom of speech is ‘nothing more than puffery.’” The letter also notes that since filing this lawsuit in November 2025, the parent company of X Corp. — xAI — had signed a contract with the U.S. Department of War. App. L.

On April 14, 2026, X Corp. filed repetitive Supplemental Objections to injunctive relief, concluding with “Plaintiff identifies no government action that could plausibly serve as a basis for an injunction in this case, nor could he, as X Corp. is a private company.” App. N.

A hearing was held in the Tarrant County district court on April 15, 2026, where defense counsel again claimed that Musk had not been served, and repeated arguments to dismiss already shown to be groundless within the meaning of Tex. R. Civ. P. 13. App. J. It was pointed out that the Respondents have not disputed

that Applicant is “shadow banned” on X.com, nor have they disputed that Musk is a federal official. The Motion was nonetheless denied, triggering an interlocutory appeal under Civ. Prac. & Rem. Code § 51.014(a)(4) that was denied by the Court of Appeals in three days (not allowing even the possibility of an answer from the Respondents) with an *unsigned* order on May 6. App. A (Cf. Tex. R. App. P. 9.1(c)). This same petition for a writ of injunction was filed in the Supreme Court of Texas on May 25, it once again went unanswered, and was denied without comment on July 3, 2026. See No. 26-0532. App. AA.

ARGUMENT

To obtain a temporary injunction in Texas, a petitioner must prove three specific elements: (i) a cause of action against the defendant; (ii) a probable right to the relief sought; and (iii) an imminent and irreparable injury in the interim. *Butnaru v. Ford Motor Co.*, 84 S.W.3d 198, 204 (Tex. 2002). Similarly, in the federal courts, “[a] plaintiff seeking a preliminary injunction must establish that [1] he is likely to succeed on the merits, [2] that he is likely to suffer irreparable harm in the absence of preliminary relief, [3] that the balance of equities tips in his favor, and [4] that an injunction is in the public interest.” *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 129 S. Ct. at 374, 172 L. Ed. 2d 249 (2008).

I. Applicant Has Pleaded a Cause of Tortious Interference in Violation of the First Amendment Against Respondent Elon Musk

This Application concerns Count III of the Petition which is for “tortious interference in violation of the First Amendment” against Respondent Musk in his role as a federal official, and alleges that Applicant has been “shadow banned” on X.com as part of a federally motivated cover up.

A. The Factual Allegation That Applicant Is Shadow Banned At X.com Has Not Been Disputed

The Petition and Motion show that after Applicant created an account at X.com on October 24, 2025 (<https://x.com/jPendleton1138>), and “made a total of 46 posts on X.com, including comments and questions ... [he] received zero reactions,” and “Plaintiff was never able to communicate with other users.” Pet. ¶¶24, 26.

For example, on October 30, Applicant replied to Senator Eric Schmitt of Missouri on the topic of weaponization of the justice system, saying:

“The Supreme Court roused themselves in the middle of the night to prevent the deportation of a foreigner, while I have been filing petitions for more than 3 years without any meaningful response.” *Id.* ¶17.

Senator Schmitt has over 248,000 followers, and this comment alone, referring to the unprecedented emergency relief in *AARP v. Trump*, 145 S. Ct. 1034 (U.S. 2025), should have have garnered some reactions from other users on X.com, particularly because Realtor’s profile says that he is an “[a]sylum seeker,

whistleblower, political prisoner, and plaintiff in *Pendleton v. United States, et al*, No. 1-25-CV-01218 (D.C. 2025).” Pet. ¶15. It is reasonable to expect that Senator Schmitt’s followers would be interested to know why U.S. citizens are fleeing the country after having been shut out of the courts, but several dozen comments just like this one achieved zero interactions on X.com.

Applicant quickly realized that he had been “shadow banned” — which is to say that the X.com website appears to be working normally, but all indications are that Applicant’s activities have been made invisible — and began directly asking other users to confirm that Applicant’s account was visible to them. Again, this activity generated no responses whatsoever. *Id.* ¶¶18-21. Private direct messages (DMs) to other users also went unanswered, like this one addressed to BleepingComputer, a cybersecurity and technology news service that keeps its DMs open to invite tips: “I’m a U.S. citizen seeking asylum in Quebec, Canada. Can you confirm that my account is visible on X?” *Id.* ¶22. Again, it is reasonable to expect some reaction under these circumstances, but there was nothing.

Finally, on November 8, 2025, Applicant responded to a post from X.com’s Global Government Affairs account, wherein Respondent Musk is quoted as saying “[f]ree speech is essential for democracy to function,” by claiming “I’m 100% shadow banned on X right now because my story is too embarrassing for the government.” *Id.* ¶23:



This, too, garnered zero responses. The Global Government Affairs account has 559,000 followers, and this post (at last count) generated 112 replies, 163 reposts, 750 likes, and 40,000 views — but none of these users reacted to the charge that Pendleton is “shadow banned” on the Respondents’ “free speech” platform. The Respondents themselves have nowhere denied this allegation.

B. The Fact That Musk Is A Federal Official Has Not Been Disputed

The original Petition and Motion establish from official sources that Respondent Elon Musk was designated a “special government employee” by presidential order on January 20, 2025, and that this Executive Order remained in effect until July 4, 2026 (<https://www.whitehouse.gov/presidential-actions/2025/01/establishing-and-implementing-the-presidents-department-of-government-efficiency>). According to court records, Musk is classified as a "non-career Special Government Employee" of the federal Department of Government Efficiency (DOGE) and a "Senior Advisor to the President.” *State v. Musk*, 769 F. Supp. 3d 1, 3 (D.C. 2025).

The conference letter sent to the district court on April 1, prior to the April 15 hearing on the Motion, notes that xAI — the parent company of X Corp., also owned and controlled by Musk — is now a military contractor which provides all military and civilian personnel “real-time global insights from the X platform.” (<https://www.war.gov/News/Releases/Release/Article/4366573/the-war-department-to-expand-ai-arsenal-on-genaimil-with-xai>). Before signing the deal with the Pentagon, xAI had become a General Services Administration contractor, where Musk was “continuing to work with President Trump and his team to rapidly deploy AI throughout the government for the benefit of the country.” (<https://www.gsa.gov/about-us/newsroom/news-releases/gsa-xai-partner-to-accelerate-federal-ai-adoption-09252025>).

Under the Federal Rules of Evidence, these are facts that can be “readily determined from sources whose accuracy cannot reasonably be questioned.” F.R.E. 201(b)(2). If Musk were *not* a federal official or intermediary, the Civil Rules require him to file a verified pleading asserting “that he is not liable in the capacity in which he is sued.” *WOS Const. Co., Inc. v. Hanyard*, 684 S.W.2d 675 (Tex. 1985) (citing Tex. R. Civ. P. 93(2)). He has not done so.

Moreover, the Petition and Motion should allow the Court to infer that since Applicant has “no prior relationship or contacts with the Defendants,” Pet. ¶11, who would have no conceivable motive to want to *preemptively* ban him on X.com, Applicant’s inability to communicate with other users on the website is related to the fact that he is “desperately trying to solve a legal crisis that happens to be politically inconvenient for Defendant Musk’s friends and for the Trump Administration.” *Id.* ¶30.

As previously discussed, the case in D.C.’s federal district court concerning Applicant’s passport, *Pendleton v. United States, et al*, No. 1-25-CV-01218 (D.C. 2025), involves a tangential connection to the surveillance company Palantir Technologies, which is chaired by billionaire Peter Thiel, a former business associate of Musk’s and fellow campaign contributor for Donald Trump (<https://archive.ph/20241210183238/https://www.economist.com/business/2024/12/10/the-paypal-mafia-is-taking-over-americas-government>). Musk made his fortune in the early 2000s at the financial services company PayPal, which was also known as

“X.com” before merging with Thiel’s “Confinity,” and both Musk and Thiel are part of what has come to be known as the “PayPal Mafia” (<https://www.businessinsider.com/paypal-mafia-members-elon-musk-peter-thiel-reid-hoffman-companies>). As a federal official, Musk selected Palantir to lead a project consolidating government databases with information on American citizens, and hired several Palantir employees to staff DOGE (<https://www.theguardian.com/commentisfree/2025/jun/30/peter-thiel-palantir-threat-to-americans>).

This seems to be why “[a]fter countless petitions, there has been no hearing and no merits based determination of Plaintiff’s constitutional claims,” Pet. at 4-5, and why the executive branch defendants in D.C. did not even file an answer as required by Fed. R. Civ. P. 12(a)(2) and have now *defaulted* under Fed. R. App. P. 15(b)(2). *Pendleton v. United States, et al*, No. 25-5399 (D.C. Cir. 2025). Still the courts have refused to grant the relief that is *mandated* by the Appellate Rules.⁴ Both the courts and the government have been intent on avoiding the implication that Palantir is violating the Constitution. Musk is here alleged to be violating the First Amendment to cover for Palantir which is violating the Fourth Amendment. App. M (RJN No. 2). Applicant has also provided notice in Tarrant County of additional evidence that will tend to show that Musk was *personally* aware of the shadow ban at X.com from the start. RJN No. 6.

⁴ Fed. R. App. P. 15(b)(2) (“If the respondent fails to answer in [21 days], the court will enter judgment for the relief requested.”).

C. The Cause Of Tortious Interference Is Adequately Alleged

To establish a claim for tortious interference with contract, a plaintiff must establish (1) the existence of a valid contract; (2) that the defendant willfully and intentionally interfered; (3) that the interference proximately caused the plaintiff's injury; and (4) that the plaintiff incurred actual damage or loss. *Butnaru v. Ford Motor Co.*, 84 S.W.3d 198, 207 (Tex. 2002). The closely related tort of interference with a *prospective* contractual or business relation requires a plaintiff to prove they were harmed by the defendant's conduct that was "either independently tortious or unlawful." *Wal-Mart Stores, Inc. v. Sturges*, 52 S.W.3d 711 (Tex. 2001).

Because Musk is the principal owner, board chairman, and Chief Technology Officer of X Corp., he must be aware of the alleged "shadow ban" capability at X.com. It is an intentional feature of the website that is only useful for underhanded censorship. The fact that this feature exists and has been applied to Applicant's account would be enough to establish proximate causation for censorship in violation of the First Amendment and attendant benefit-of-the-bargain damages for lost profits, as alleged. Musk is a federal official who may not suppress disfavored speech, either directly or through coercion. *NRA v. Vullo*, 144 S. Ct. 1316 (U.S. 2024). It has always been the rule in Texas that corporate officers are liable for their own torts. *Light v. Wilson*, 663 S.W.2d 813, 815 (Tex. 1983) (J. Spears, concurring). Individual liability arises when the officer "owes an

independent duty of reasonable care to the injured party apart from the [corporation's] duty.” *Leitch v. Hornsby*, 935 S.W.2d 114 (Tex. 1996).

The Texas Supreme Court has further explained that in tortious interference cases where the defendant serves the dual roles of both the corporate agent and the third party tortfeasor, to establish a prima facie case, it must be shown that the defendant acted in a fashion so contrary to the corporation's interests that his actions could only have been motivated by outside influence. *Holloway v. Skinner*, 898 S.W.2d 793, 796 (Tex. 1995). In this case, Musk is alleged to be interfering on behalf of the U.S. Government in a way that is inimical to the interests of X Corp. and has exposed the company to liability for fraud.

Judging from the complaints X Corp. has received on the Better Business Bureau website (<https://www.bbb.org/us/tx/bastrop/profile/social-media-marketing/x-corp-0825-1000230350/customer-reviews>), many of them coming after Musk became a federal official, these circumstances indicate that there are indeed systematic First Amendment violations being committed by the Defendants on X.com, and the potential for a mass tort action.

II. Applicant Unquestionably Has a Right to Freedom of Speech and Has Shown Probable Interference With That Right

“[A]ny delay in the exercise of First Amendment rights constitutes an irreparable injury to those seeking such exercise.” *Iranian Muslim Org'n v. City of San Antonio*, 615 S.W.2d 202, 208 (Tex. 1981) (citing *Southwestern Newspapers*

Corp. v. Curtis, 584 S.W.2d 362, 365 (Tex. Civ.App.—Amarillo 1979). Texas recognizes that “the Supreme Court has taken a definitive stance guaranteeing equal First Amendment protection for speech over the Internet,” *Kinney v. Barnes*, 443 S.W.3d 87, 101 (Tex. 2014), noting that the Court “[has] champion[ed] its role as an equalizer of speech and a gateway to amplified political discourse.” *Id.* (citing *Reno v. American Civil Liberties Union*, 521 U.S. 844, 870, 117 S. Ct. 2329, 138 L. Ed. 2d 874 (1997)). “A hallmark of the right to free speech under both the U.S. and Texas Constitutions is the maxim that prior restraints are a heavily disfavored infringement of that right.” *Kinney* at 89. “The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.” *Elrod v. Burns*, 427 U.S. 347, 96 S. Ct. 2673, 49 L. Ed. 2d 547 (1976).

Not only is there ample evidence in the record that Applicant is being censored by a federal official, this evidence is entirely uncontroverted. The Respondents have not *specifically* denied anything. Their affirmative defenses filed on December 29, 2025, say meaningless things like “the Petition contains no cause of action that has a basis in law,” and “Defendant X Corp. did not owe a legal duty to Plaintiff,” and “X Corp.’s conduct conformed with the applicable regulations and other pertinent federal statutes and regulations.” See App. D at 8-9.

A. X Corp. Has Done Nothing But Misrepresent the Law

X Corp.'s disingenuous responses to this lawsuit are perhaps the best evidence available regarding the intent and motive of the Respondents. Their Rule 91a Motion To Dismiss filed on February 4th, 2026, argues that the company is *justified* in censoring Applicant's speech, and seemingly admits their false advertising by arguing that the Respondents' promises of free speech are nothing more than "puffery and platitudes." Incredibly, X Corp. raised the First Amendment in its own defense, even though the Free Speech Clause has never protected fraud, and then argued that *their* promises of free speech are too vague to be actionable. See App. H at 15-18.

On March 30, 2026, Applicant filed a Motion For Sanctions under Rule 13, pleading that there is *literally nothing* in defense counsel's filings that can fairly be said to be "based on the signatory's best knowledge, information, and belief, formed after reasonable inquiry." *Low v. Henry*, 221 S.W.3d 609, 615 (Tex. 2007). Given that refusals to perform coupled with denials that any promise was ever made are factors tending to support findings of fraud (*Spoljaric v. Percival Tours, Inc.*, 708 S.W.2d 432, 435 (Tex. 1986)), the Motion For Sanctions asks that Counts I & II be deemed admitted pursuant to Tex. R. Civ. P. 215.2(b)(3-4). App. J.

B. Defendant Musk Has Been In Default Since February

As to Count III, when X Corp. was served with the Motion for a First Amendment injunction on January 6, 2026, defense counsel responded with

Objections on January 8, arguing that the requested relief was *ex parte* because “Elon Musk has not been properly served in this matter,” as though Musk were not part of X Corp. See App. F at *1.

Of course, Civil Rule 52 says that allegations of incorporation “shall be taken as true, unless denied by the affidavit of the adverse party, his agent or attorney.” According to traditional corporate agency principles, Musk and X Corp. are mutually responsible for the conduct of the other; they are jointly and severally liable for all claims here, e.g. *GTE Southwest, Inc. v. Bruce*, 998 S.W.2d 605, 618 (Tex. 1999) (“a master is vicariously liable for the torts of its servants committed in the course and scope of their employment”); *In re Caremark Intern. Inc. Deriv. Lit.*, 698 A.2d 959, 970 Del. Ch. 1996 (Ch. 1996) (officers and board potentially liable for company’s failure to comply with applicable law); *SITQ EU, INC. v. Reata Restaurants, Inc.*, 111 S.W.3d 638 (Tex. App. 2003) (“corporate officer or employee is not shielded from the exercise of specific jurisdiction as to torts for which the officer or employee may be held individually liable”).

The most generous interpretation of the Civil Rules is that X Corp.’s general appearance and Objections to defective service on Musk filed January 8 are

governed by Rule 122 for constructive appearances,⁵ after which Musk's "only relief is additional time to answer." *Kawasaki Steel Corp. v. Middleton*, 699 S.W.2d 199 (Tex. 1985). This puts Musk in default as of February 2, 2026.

The least generous interpretation is that X Corp., through counsel, has perpetrated fraud on the Texas courts by pretending that Musk is not the owner and operator of the company. It should be noted that when, as here, the corporate fiction is "urged to an intent not within its reason and purpose, it should be disregarded and the corporation considered as an aggregation of persons, both in equity and at law." *Western Rock Company v. Davis*, 432 S.W.2d 555, 558 (Tex. Civ. App. 1968). "The purpose of the court in cases of this nature is to prevent use of the corporate entity as a cloak for fraud or illegality or to work an injustice, and that purpose should not be thwarted by adherence to any particular theory of liability." *Gentry v. Credit Plan Corporation of Houston*, 528 S.W.2d 571, 575 (Tex. 1975) (alter ego).

III. Applicant Has Demonstrated Irreparable Harm With No Adequate Remedy Absent Court Intervention

"[An] injunction's purpose is to preserve the status quo of the litigation's subject matter pending a trial on the merits." *Butnaru v. Ford Motor Co.*, 84

⁵ "If the citation or service thereof is quashed on motion of the defendant, such defendant shall be deemed to have entered his appearance at ten o'clock a.m. on the Monday next after the expiration of twenty (20) days after the day on which the citation or service is quashed, and such defendant shall be deemed to have been duly served so as to require him to appear and answer at that time, and if he fails to do so, judgment by default may be rendered against him." Tex. R. Civ. P. 122.

S.W.3d 198, 204 (Tex. 2002). Applicant is asking the Court to preserve the status quo of free speech during the pendency of this action, a right this Court has described as a “profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open” *New York Times Co. v. Sullivan*, 376 U.S. at 270, 84 S. Ct. 710, 11 L. Ed. 2d 686 (1964). Given the evasiveness and consistently spurious arguments from the Respondents, it is unlikely they would be willing to comply without a court order.

In *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 129 S. Ct. 365, 172 L. Ed. 2d 249 (2008), this Court explained that courts considering motions for preliminary injunctions should factor the equities or hardships between the parties, as well as the public interests at stake.

Here, Applicant is making an extremely mild request of the Court to enjoin the Respondents from suppressing Applicant’s speech any more than other similarly situated users prior to October 24, 2025, when Pendleton created his account at X.com. Such an order is necessary to preserve the status quo according to the rules in place at the start of this dispute, and to prevent the Respondents from making subsequent wholesale changes to how they treat similar categories of accounts as a way of indirectly targeting Pendleton for censorship. Hence, whatever category Applicant’s unverified account would have fallen into as of October 24, 2025, according to the metrics and algorithms in use on X.com as of that date, should be preserved as the baseline for the duration of this lawsuit.

This should be an uncontroversial request because the Applicant agrees with Respondent Musk's public statements that "failing to adhere to free speech principles fundamentally undermines democracy." See Pet. ¶6. There can be no harm to the Respondents because it would be illegal under Tex. Bus. & Comm. Code § 17.46(b), and unconstitutional according to the First Amendment, for them to oppose such an order. It is not unduly burdensome to ask that the Respondents treat Applicant the same as any other user at X.com, and the equities are firmly in Applicant's favor because enjoining unconstitutional conduct is "no harm at all." *US Navy Seals 1-26 v. Biden*, 27 F.4th 336, *23 (5th Cir. 2022) (quoting *McDonald v. Longley*, 4 F.4th 229, 254 (5th Cir. 2021)).

Applicant believes the public has an equally abiding interest in hearing the story of why he was forced to seek asylum in Canada because "the First Amendment protects the public's interest in receiving information." *Pacific Gas & Elec. Co. v. Public Util. Comm'n of Cal.*, 475 U.S. 1, 106 S. Ct. 903, 89 L. Ed. 2d 1 (1986) (citing the labor dispute in *Thornhill v. Alabama*, 310 U.S. 88, 60 S. Ct. 736, 84 L. Ed. 1093 (1940)); see also *Lamont v. Postmaster General*, 381 U.S. 301, 85 S. Ct. 1493, 14 L. Ed. 2d 398 (1965). In *Procunier v. Martinez*, 416 U. S. 396, 408-409 (1974), where censorship of prison mail was under examination, the Court thought it unnecessary to assess the First Amendment rights of the inmates themselves, reasoning that such censorship equally infringed the rights of non-inmates to whom the correspondence was addressed.

Without an order from this Court enforcing Applicant's right to speak in what is now, according to the Respondents, the *de facto* public arena and preferred channel for communication with government officials — X.com — the Applicant will be prejudiced by not being able to do the public outreach and fundraising necessary to defend himself and fully vindicate his rights here and elsewhere.

CONCLUSION

As explained during the hearing in the Tarrant County district court, this lawsuit is not a publicity stunt, nor is it a political vendetta against Respondent Musk whose views this Applicant tends to sympathize with to the extent that he is even aware of what they are. It is a sincere attempt to save life, liberty, and happiness, and warn the world about what the U.S. Government has become.

On June 15, 2026, Applicant mailed a petition for certiorari in the D.C. case concerning his passport, asking this Court to (1) review the standards for judicial immunities in light of the fact that the 1871 Congress, in passing the Ku Klux Klan Act now codified at 42 U.S.C. §§ 1983, 1985, apparently intended what today would be termed an “actual malice” standard for damage claims against judicial officers who knowingly or recklessly violate the Constitution,⁶ and (2) formally end the decades-long project of “allowing federal officials to operate in something resembling a Constitution-free zone,” *Byrd v. Lamb*, 990 F.3d 879, 884 (5th Cir.

⁶ Unsigned note, "JUDICIAL IMMUNITY AT THE (SECOND) FOUNDING: A NEW PERSPECTIVE ON § 1983." *Harvard Law Review*, Vol. 136 (2022): 1456.

2021) (J. Willet, concurring), since the 1988 Congress plainly authorized a “civil action against an employee of the Government ... brought for a violation of the Constitution of the United States,” 28 U.S.C. § 2679(b)(2)(A),⁷ and federal courts otherwise lack the authority to preempt state tort remedies for violations of clearly established constitutional rights. The Court is refusing to docket that petition.

This should be troubling news for everyone but I am unable to share it because Musk’s friends at Palantir have turned the Internet into a digital prison — the Court should know that this Applicant is banned *everywhere*, not just at X.com. This suit was brought in the Texas courts in part because Applicant had reasonable confidence that the State still took the First Amendment seriously, and saw an opportunity for equitable relief. But while the Texas legislature passed House Bill 20 in an attempt to enforce freedom of speech in Civ. Prac. & Rem. Code §§ 143A.001 *et seq*, there have been no findings of fact or conclusions of law in this case since it was filed in November, and defense counsel has somehow managed to dismiss claims against a Defendant they purport not to represent. Defense counsel has done nothing but openly lie to the courts, and the courts have done nothing but sign the orders given to them by X Corp.

⁷ Vázquez, Carlos M., and Stephen I. Vladeck. "State Law, the Westfall Act, and the Nature of the Bivens Question." U. Pa. L. Rev. 161 (2012): 509.

This Court is now asked to decide whether *Bantam Books*⁸ is still good law when it comes to prior restraints on core political speech. Essentially, does the Court actually believe the oft-quoted passage in *Elrod*, and will we live in an *NRA v. Vullo* world with meaningful deterrents on attempts by governments to outsource their censorship efforts, or in a *Murthy v. Missouri*⁹ world where the practice is condoned? This Court should carefully consider who and what the laws of the United States aim to protect.

PRAYER FOR RELIEF

This Court should issue an order enjoining the Respondents, Elon Musk and X Corp., from treating Applicant's account differently from other similarly situated accounts on X.com prior to October 24, 2025. The freedom of speech guaranteed by the First Amendment is among the most jealously guarded of constitutional rights and this Court should enforce it without hesitation.

Respectfully submitted,

Dated July 15, 2026.

/s/ Jochen E. Pendleton

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⁸ *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58, 83 S. Ct. 631, 9 L. Ed. 2d 584 (1963)

⁹ 144 S. Ct. 1972, 603 U.S. 43, 219 L. Ed. 2d 604 (2024)

28 U.S.C. § 1746 VERIFICATION STATEMENT

Applicant, Jochen Edmund Pendleton, formerly known as Jonathan Eric Pendleton, declares under penalty of perjury under the laws of the United States of America that the foregoing EMERGENCY APPLICATION FOR A WRIT OF INJUNCTION is true and correct to the best of his knowledge and belief.

Executed on July 15, 2026.

/s/ J. E. Pendleton

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CERTIFICATE OF SERVICE

The Applicant hereby certifies that a copy of the foregoing was served on lead counsel for X Corp. at following address:

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