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10  
11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA  
13

14 GENEVIEVE MAHONEY, a/k/a  
15 @genmahoney19, an individual,

16 Plaintiff,

17 v.

18 META PLATFORMS, INC., f/k/a Facebook,  
19 Inc.,

20 Defendant.

Case No. 22-cv-02873-JD

**First Amended Complaint**

**DEMAND FOR JURY TRIAL**

Judge: Hon. James Donato

21 Plaintiff Genevieve Mahoney, a/k/a @genmahoney19 (“Genevieve”) — her Instagram  
22 handle and username — hereby files her first amended complaint against the Defendant  
23 Meta Platforms, Inc., f/k/a Facebook, Inc. (“Facebook”).<sup>1</sup> Genevieve states as follows:  
24  
25

26 <sup>1</sup> Facebook acquired Instagram, Inc. on April 9, 2012. On October 28, 2021, Facebook  
27 introduced “Meta” as its new company name and brand, and Facebook and Instagram  
28 remain under the Meta corporate brand. See <https://about.meta.com/company-info/> (last visited Jan. 14, 2023).

1 INTRODUCTION

2 1. “A fundamental principle of the First Amendment is that all persons have access to  
3 places where they can speak and listen, and then, after reflection, speak and listen once  
4 more. The [United States Supreme] Court has sought to protect the right to speak in this  
5 spatial context.” *Packingham v. North Carolina*, 137 S. Ct. 1730, 1735 (2017).

6 2. “While in the past there may have been difficulty in identifying the most important  
7 places (in a spatial sense) for the exchange of views, today the answer is clear. It is  
8 cyberspace—the ‘vast democratic forums of the Internet’ in general, *Reno v. American Civil*  
9 *Liberties Union*, 521 U. S. 844, 868 (1997), and social media in particular.” *Packingham*,  
10 137 S. Ct. at 1735.

11 3. The Internet is a “dynamic, multifaceted category of communication” that “includes  
12 not only traditional print and news services, but also audio, video, and still images, as well  
13 as interactive, real-time dialogue.” *Reno*, 521 U. S. at 870.

14 4. Congress determined that “[t]he Internet and other interactive computer  
15 services offer a forum for a true diversity of political discourse, unique opportunities for  
16 cultural development, and myriad avenues for intellectual activity.” 47 U.S.C. § 230(a)(3).

17 5. But not all speech published in a public forum is protected. Defamatory speech that is  
18 false and untrue is not protected speech. “Defamation per se occurs when a statement, is  
19 defamatory on its face, that is untrue.” *Yow v. National Enquirer, Inc.*, 550 F. Supp. 2d  
20 1179, 1183 (E.D. Cal. Mar. 9, 2008).

21 6. “Defamation can take the form of slander or libel.” *Id.*

22 7. “A [writing] which is defamatory of the plaintiff without the necessity of explanatory  
23 matter, such as an inducement, innuendo or other extrinsic fact, is said to be a libel on its  
24 face.” Cal. Civ. Code § 45a; *see also Song Fi Inc. v. Google, Inc.*, 108 F. Supp. 3d 876, 888  
25 (N.D. Cal. Jun. 10, 2015).

26 8. “An allegation that a plaintiff is guilty of a crime is libelous on its face.” *Fashion 21 v.*  
27 *Coalition for Humane Immigrant Rights of Los Angeles*, 117 Cal. App. 4th 1138, 1145 n.7

1 (Cal. Ct. App. 2004); *Barnes-Hind, Inc. v. Sup .Ct.*, 181 Cal. App. 3d 377, 385 (Cal. Ct. App.  
2 1986) (“Perhaps the clearest example of libel per se is an accusation of crime.”).

3 9. Indeed, statements which falsely impute the commission of a crime are libelous on  
4 their face. *See Snider v. Nat’l Audubon Soc’y, Inc.*, 1992 U.S. Dist. Lexis 10017, at \*15  
5 (E.D. Cal. Apr. 14, 1992) (denying motion to dismiss where “the clear implication from the  
6 article is that plaintiff is being investigated by the I.R.S.”).

7 10. Publishing false and untrue written material “which exposes any person to hatred,  
8 contempt, ridicule, or obloquy, or which causes him to be shunned or avoided, or which has  
9 a tendency to injure him in his occupation” is libelous per se. *See Washburn v. Wright*, 261  
10 Cal. App. 2d 789, 797 (Cal. Ct. App. 1968).

11 11. “The First Amendment requires a plaintiff to establish that the statement on which  
12 the defamation claim is based is ‘of and concerning’ the plaintiff.” *D.A.R.E. America v.*  
13 *Rolling Stone Magazine*, 101 F. Supp. 2d 1270, 1289 (C.D. Cal. Apr. 28, 2000); *Blatty v.*  
14 *New York Times Co.*, 42 Cal. 3d 1033, 1042 (Cal. 1986).

15 12. “Under California law, there is no requirement that the person defamed be  
16 mentioned by name. It is sufficient if the jury can infer from the evidence that the  
17 defamatory statement applies to the plaintiff, or if the publication points to the plaintiff by  
18 description or circumstances tending to identify him.” *Church of Scientology of California*  
19 *v. Flynn*, 744 F. 2d 694, 697 (9th Cir. 1984) (cleaned up).

20 13. When a plaintiff is not specifically named in the defamatory statement, but she is  
21 reasonably implicated by the circumstances surrounding the statement, she must also  
22 show that a third party understood the alleged statement to refer to her. *SDV/ACCI, Inc.*  
23 *v. ATT&T Corp.*, 522 F. 3d 955, 960 (9th Cir. 2008) (applying *Flynn*’s two-step analysis  
24 when a statement does not specifically name its target: the statement (1) must be capable  
25 of being understood to refer to the plaintiff; and (2) it must have been understood by a third  
26 party to actually refer to the plaintiff).

27 14. Here, Genevieve — a college freshman at the time — was a lawful and peaceful  
28 political protestor near the United States Capitol on January 6, 2021. That afternoon,

1 unlawful protestors other than Genevieve breached the U.S. Capitol.

2 15. Before the breach, Genevieve photographed the Capitol off in the distance,  
3 captioned it “Our Capitol,” and published her photo on the Internet through Instagram.

4 16. Genevieve’s “Our Capitol” photo content included a message to be communicated —  
5 “We the People,” as embodied in the Constitution’s Preamble — and an audience and  
6 dedicated public forum to receive that message — the Internet and her college Instagram  
7 group and community. *See Hurley v. Irish-American Gay, Lesbian & Bisexual Group*, 515  
8 U.S. 557, 568 (1995); *see also Kaplan v. California*, 413 U.S. 115, 119-20 (1973).

9 17. After Genevieve published her “Our Capitol” photo content, Facebook executives  
10 published an emergency news statement, declaring protestors’ photos were inciting and  
11 encouraging the Capitol breach events, and the photos themselves “represent promotion of  
12 criminal activity.”

13 18. Facebook then took further action and blocked and restricted Internet access to  
14 Genevieve’s “Our Capitol” political photo content, by disabling her Instagram account.

15 19. Genevieve is suing Facebook for Defamation Per Se for its own speech — not the  
16 speech of third parties — that was false and defamed Genevieve by reasonable implication,  
17 and which was understood by members of her college Instagram group and community to  
18 actually refer to her.

19 **PARTIES**

20 20. Genevieve Mahoney is an individual and citizen of the United States, and she  
21 resides in Nashville, Davidson County, Tennessee. At all relevant times, Genevieve’s  
22 Instagram handle was @genmahoney19, and she was, and is, a student at Furman  
23 University in Greenville, South Carolina.

24 21. Genevieve has never been charged with a crime for inciting or encouraging the  
25 Capitol breach events for publishing her “Our Capitol” political photo content on January  
26 6, 2021, nor has law enforcement deemed that her “Our Capitol” political photo content  
27 “represents promotion of criminal activity.”

28 22. By publishing her “Our Capitol” communicative photo content on the Internet

1 through Instagram, Genevieve was an Internet information content provider as defined by  
2 47 U.S.C. § 230(f)(3).

3 23. At all relevant times, Meta Platforms, Inc., f/k/a Facebook, Inc., was, and is, a  
4 corporation with its principal place of business located in Menlo Park, California. The  
5 company owns Facebook, Instagram, and WhatsApp, among other assets.

6 24. Facebook is a global social media and technological conglomerate and earned  
7 approximately \$86 billion dollars in 2020, mostly through digital advertising.

8 25. In a recent Form 10K Annual Report filed with the Securities and Exchange  
9 Commission (“SEC”), Facebook stated, “Substantially all of our revenue is currently  
10 generated from third parties advertising on Facebook and Instagram.”<sup>2</sup>

11 26. Instagram is a photo and video sharing network where users upload photos and  
12 videos on the Internet through its platform.

13 27. A recent report revealed that approximately 1.4 billion people use Instagram, and  
14 170 million users are in the U.S. Almost 58% of U.S. users are female, and 31.4% of U.S.  
15 users are aged between 25 and 34. And in an emerging trend, single image photos generate  
16 more engagement from others than permanent videos.<sup>3</sup>

### 17 **JURISDICTION AND VENUE**

18 28. The Court has diversity jurisdiction over Plaintiff’s state law Defamation Per Se  
19 claim pursuant to 28 U.S.C. § 1332, because there is complete diversity of citizenship  
20 between the parties, and the amount in controversy exceeds \$75,000, exclusive of interest  
21 and costs.

22 29. The Court has personal jurisdiction over Defendant Facebook because it maintains  
23 its principal place of business in California.

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27 <sup>2</sup> See [https://www.sec.gov/Archives/edgar/data/1326801/000132680122000018/fb-  
28 20211231.htm](https://www.sec.gov/Archives/edgar/data/1326801/000132680122000018/fb-20211231.htm) at p. 15 (last visited Oct. 10, 2022).

<sup>3</sup> See <https://bloggingwizard.com/instagram-statistics-and-facts/> (last visited Jan. 15, 2023).

1 30. Venue is appropriate in this district because Facebook maintains its principal place  
2 of business in the Northern District of California, and a substantial part of the events  
3 giving rise to the claims occurred in this district.

4 **FACTUAL ALLEGATIONS**

5 *January 6, 2021*

6 31. In accordance with Public Gathering Permit # 21-0278 that was issued by the  
7 United States Department of the Interior-National Park Service (“Permit”), permission was  
8 granted to the organization *Women for America First* to hold a First Amendment “Save  
9 America Rally” at the Ellipse in the President’s Park outside the White House (“Ellipse”),  
10 on January 6, 2021, in Washington D.C. (“Rally”).<sup>4</sup>

11 32. The Permit further authorized participants at the Rally to leave the Ellipse and  
12 attend other rallies at the United States Capitol (“Capitol”) to hear the results of the  
13 Congressional Certification of the Electoral College Count being conducted at the Capitol  
14 on January 6, 2021 (“Certification Count”).

15 33. The Rally was organized by *Women for America First* to celebrate the First  
16 Amendment rights of American citizens and to demand transparency in government and  
17 protect election integrity, in protest of the presidential election held on November 3, 2020,  
18 which had just concluded (the “Election”).

19 34. Numerous allegations of voter fraud in various states across the country were  
20 raised in several public forums on the Internet including on Facebook, as well as in  
21 lawsuits filed in courts across the country challenging the results of the Election.

22 35. The Rally featured a diverse group of speakers and politicians from across the  
23 country including then-President Donald J. Trump (“President Trump”).

24 36. The day after the Election and to promote the Rally, *Women for America First*  
25 started the “Stop the Steal” Facebook group that went viral. The group grew organically to  
26

27  
28 <sup>4</sup> The Permit was amended several times and included the approved date range from Jan.  
2, 2021, through Jan. 8, 2021.

1 over 365,000 people in just 22 hours.<sup>5</sup>

2 37. *Women for America First* realized a movement was building of Americans across the  
3 country concerned about their voices being heard and the foundation of our country as well  
4 as election integrity.<sup>6</sup> As a result of *Women for America First* promoting the Rally on  
5 Facebook, thousands of people across the country traveled to the Ellipse in D.C. on  
6 January 6, 2021, to have their voices heard and to protest the Election and Certification  
7 Count peacefully and lawfully.<sup>7</sup>

8 38. At some point during the afternoon, a small percentage of protestors at the Rally  
9 and Certification Count breached the premises of the Capitol, resulting in hundreds of  
10 arrests and eventual criminal prosecutions that are ongoing.

11 *Facebook's "Dark Money" Contribution to the Rally and Voter Registration Drive*

12 39. The Rule of Law Defense Fund ("RLDF"), an IRC 501(c)(4) arm of the Republican  
13 Attorneys General Association ("RAGA"), and other corporations, helped to organize and  
14 stage the Rally at the Ellipse with financial contributions referred to as "dark money."<sup>8</sup>

15 40. Several corporations and social media platforms contributed to RAGA in 2020 with  
16 financial donations and contributions that assisted *Women for America First* and RLDF  
17 with promoting and staging the Rally. Facebook made a \$50,000 contribution and donation  
18 to RAGA that upon information and belief contributed to the staging and presentation of  
19 the Rally on January 6, 2021.<sup>9</sup>

20 41. In addition to the \$50,000 Facebook contributed to RAGA that helped to stage and  
21 present the Rally, several protestors used Facebook "groups" and "communities" to  
22 organize, communicate, and promote their plans for the Rally and to organize and  
23 coordinate their travel schedules from across the country to D.C. for the Rally and  
24

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25 <sup>5</sup> See <https://wfaf.org>.

26 <sup>6</sup> *Id.*

27 <sup>7</sup> *Id.*

28 <sup>8</sup> See <https://documented.net/reporting/republican-attorneys-general-dark-money-group-organized-protest-preceding-capitol-mob-attack>.

<sup>9</sup> *Id.*



1 Certification Count.

2 42. In the leadup to the 2020 Election, Facebook had launched the largest voting  
3 information center in United States' history to register 4 million voters.<sup>10</sup>

4 43. Facebook co-founder and CEO Mark Zuckerberg and his wife also donated over  
5 \$350 million to two organizations engaged in election-related activity, including the Center  
6 for Tech and Civic Life. According to one NPR report, Zuckerberg's private financial  
7 contribution purportedly, "saved the 2020 Election."<sup>11</sup>

8 44. The Davidson County Election Commission heavily promoted Tennessee voter  
9 registration and participation on its Facebook page in the leadup to the Election of 2020.<sup>12</sup>

10 *Genevieve - @genmahoney19*

11 45. On January 6, 2021, Genevieve was a 19-year-old female college freshman at  
12 Furman University, where she still attends.

13 46. Genevieve was a frequent user of Instagram, where she interacted, posted, and  
14 curated photographs on the Internet through her Instagram account on a regular basis.

15 47. Because of Instagram's national presence and market dominance, Genevieve used  
16 Instagram's services so her photos and communicative messages would reach the largest  
17 possible audience on the Internet. She also used Instagram so her photos and  
18 communicative messages would reach her college Instagram group and community.

19 48. For their economic advantage, to ensure as many users as possible to receive digital  
20 advertising from third parties, Facebook and Instagram open up their private social media  
21 platforms for use by the general public.

22 49. "Everyone is welcome in our community" proclaims the message on Instagram's  
23 website in describing its private social media platform that provides user access to the  
24 Internet.<sup>13</sup>

25 \_\_\_\_\_  
26 <sup>10</sup> See <https://about.fb.com/news/2020/08/launching-voting-information-center/>.

27 <sup>11</sup> See <https://www.npr.org/2020/12/08/943242106/how-private-money-from-facebooks-ceo-saved-the-2020-election>.

28 <sup>12</sup> See <https://www.facebook.com/davidsoncountyelections/>.

<sup>13</sup> See <https://about.instagram.com/community/> (last visited Jan. 17, 2023).



1 50. Facebook and Instagram provide many smaller “communities” and “groups” within  
2 their larger social media communities so users may join and align with such groups with  
3 which they have similar interests and shared experiences.

4 51. Facebook and Instagram do not charge users a fee to use their private social media  
5 platforms to publish photos and messages that access and reach the Internet and those  
6 specific communities and groups the user chooses to join.

7 52. Genevieve never paid Facebook or Instagram a fee to publish her “Our Capitol”  
8 photo or any other photos she published on the Internet through Instagram and to her  
9 college Instagram group and community.

10 53. In reliance upon Facebook and Instagram’s policies, “Community Standards,” and  
11 recommendations that participants and users should engage in “groups” or “communities”  
12 to fully appreciate the social media experience, Genevieve was a regular interactive  
13 member of the Instagram group, @fur.meme.

14 54. The Instagram group @fur.meme was a well-followed group and community  
15 comprised of Furman students, faculty, school officials, and alumni. Upon information and  
16 belief, @fur.meme was an Instagram account operated and administered by an anonymous  
17 currently-enrolled Furman student.

18 55. Genevieve serves as a Board Member for the Furman Conservative Society, a group  
19 that focuses on discussing and advancing conservative viewpoints and values upon which  
20 this nation was founded.

21 56. Having reached the minimum age to lawfully vote, Genevieve had just voted for the  
22 first time in the Election as a Davidson County, Tennessee resident. Genevieve voted in the  
23 Election by absentee ballot via U.S. mail.

24 57. The 2020 Election was a milestone event in the country’s history, particularly for  
25 Tennessee women like Genevieve. It had been 100 years since the passage of the 19th  
26 Amendment to the Constitution, which granted women the right to vote in 1920. Tennessee  
27 had been the pivotal and necessary 36th state to approve ratification of the 19th  
28 Amendment to the United States Constitution.

1 58. Pro-suffrage and anti-suffrage activists from around the state and the country  
2 descended on Nashville in the summer of 1920, intent on influencing the Tennessee  
3 General Assembly. Women gained the right to vote, and one hundred years later women  
4 like Genevieve still make their voices heard.

5 59. After the Election, Genevieve was home from college in Nashville over the  
6 Christmas break, and she made the decision to travel to D.C. to attend the Rally and  
7 Certification Count to exercise her First Amendment rights and to “save our democracy.”  
8 Genevieve attended the Rally and Certification Count with various family members.

9 60. Based on reported information and numerous formal and informal challenges being  
10 raised across the county regarding the Election results, Genevieve believed that there were  
11 voting irregularities in the Election.

12 61. She also felt it was her civic duty to exercise her First Amendment advocacy rights  
13 peacefully and lawfully as an American citizen, in protest of the Election and Certification  
14 Count, which she believed didn’t represent her voice and the voices of many other  
15 Americans.

16 *Genevieve’s Post of her “Our Capitol” Communicative Photo Content*

17 62. On January 6, 2021, at approximately 2:00 p.m. Eastern, while peacefully walking  
18 with family members from the Rally at the Ellipse to the Capitol as the Permit authorized,  
19 Genevieve lawfully exercised her First Amendment right to political free speech by  
20 publishing on the Internet through her Instagram account a single image photograph she  
21 took of the United States Capitol in the distance, captioned “Our Capitol.”

22 63. Genevieve’s actual “Our Capitol” photograph that she published on the Internet  
23 through Instagram, which reached and accessed the general public and her @fur.meme  
24 Instagram group and community, is as follows:  
25  
26  
27  
28



**“Our Capitol”**

64. To Genevieve, her post and message on the Internet through Instagram of the phrase “Our Capitol,” along with her published photograph of the Capitol in the distance beyond the temporary spectator scaffolding, reflected her beliefs and were symbolic and representative of the statement, “We the People,” embodied in the Preamble to the United States Constitution.

65. Genevieve intended for her “Our Capitol” photo to communicate this message when she published it on the Internet through Instagram on January 6, 2021.

66. There was an audience on the Internet, including the general public and her @fur.meme Instagram group, to receive Genevieve’s “Our Capitol” communicative message.

67. It was reasonable and likely that Genevieve’s “Our Capitol” communicative message would be understood by those who viewed it.

68. Genevieve’s lawful post on the Internet through Instagram of the photograph of the Capitol was protected speech under the First Amendment and not representative of Genevieve engaging in criminal activity. Nor did her “Our Capitol” photo “represent promotion of criminal activity” in violation of a criminal statute.

69. That afternoon at the U.S. Capitol, Genevieve did not go onto the premises of the

1 Capitol; she did not enter the Capitol building; and she remained positioned well behind  
 2 the temporary spectator scaffolding as depicted by her vantage point in her “Our Capitol”  
 3 photograph she published on the Internet through Instagram.

4 70. Genevieve has never been charged with violating a state or federal criminal statute  
 5 for engaging in criminal activity or inciting, encouraging, or promoting criminal activity  
 6 arising out of her “Our Capitol” photograph she posted on the Internet through Instagram.

7 *Breach of the Capitol*

8 71. Some protestors other than Genevieve allegedly committed crimes by breaching the  
 9 Capitol and engaging in criminal activity on January 6, 2021. The U.S. Attorney’s Office for  
 10 the District of Columbia is prosecuting those cases of protestors charged with engaging in  
 11 criminal activity, including those charged with inciting, encouraging, or promoting criminal  
 12 activity arising out of the Capitol Breach and lists those cases on its website.<sup>14</sup>

13 72. As verified by the charges and prosecutions of other protestors, Genevieve is not one  
 14 of the protestors charged with the Capitol Breach for inciting, encouraging, or promoting  
 15 criminal activity; her name does not appear on the list.<sup>15</sup>

16 73. Genevieve was not charged with a crime because her “Our Capitol” photo content was  
 17 protected speech under the First Amendment and the Supreme Court’s holdings in its  
 18 *incitement* line of cases. *See generally Brandenburg v. Ohio*, 395 U.S. 444 (1969); *Hess v.*  
 19 *Indiana*, 414 U.S. 105 (1973); *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886 (1982).

20 74. And as expressly set forth below in United States Criminal Code, 18 U.S.C. § 2102(b),  
 21 her “Our Capitol” photo content did not promote or encourage criminal activity, nor did it  
 22 represent promotion of criminal activity. That relevant statute states:

23 As used in this chapter, the term “to incite a riot”, or “to organize,  
 24 promote, encourage, participate in, or carry on a riot”, includes,  
 25 but is not limited to, urging or instigating other persons to riot,  
 26 but shall not be deemed to mean the mere oral or written (1)  
 advocacy of ideas or (2) expression of belief, not involving advocacy  
 of any act or acts of violence or assertion of the rightness of, or the

27  
 28 <sup>14</sup> See <https://www.justice.gov/usao-dc/capitol-breach-cases> (last visited Jan. 15, 2023).

<sup>15</sup> See *id.*

1 right to commit, any such act or acts.

2 75. Genevieve never in her wildest dreams imagined how something so uniquely  
3 American as free speech and the right to peacefully and lawfully assemble in accordance  
4 with the First Amendment would turn into an event marred by violence and unlawful  
5 behavior by some protestors in breaching the U.S. Capitol's premises.

6 76. Genevieve attended the Rally and Certification Count because she felt it was her  
7 civic obligation to demonstrate to members of Congress that there were many Americans  
8 who felt unrepresented, misrepresented, and marginalized.

9 77. Genevieve felt her lawful presence and advocacy of liberty and freedom at the Rally  
10 and near the Capitol to peacefully protest the Election was important as representative of  
11 the great number of U.S. citizens who further felt overlooked, dismissed, and wronged by  
12 the reported voting irregularities of the Election.

13 78. Genevieve was incredibly saddened by the violent and unlawful events that took  
14 place that day. Those people that engaged in actual criminal activity or the incitement,  
15 encouragement, or promotion of criminal activity had nothing to do with her cause, beliefs,  
16 or the reason she was lawfully and peacefully assembling at the Rally and later near the  
17 U.S. Capitol in protest of the Election.

18 79. Genevieve loves her country and everything it stands for, and she wanted to remind  
19 Congressional representatives by her lawful and peaceful presence at the Rally and near  
20 the Capitol to honor their oath to represent the people faithfully. Because Genevieve  
21 believes those members of Congress received their power from the American citizens in  
22 accordance with the United States Constitution.

23 80. Genevieve supports the founding principles and ideals of this country embodied and  
24 enshrined in the Constitution, namely that our elected representatives derive their  
25 legitimacy from the people, as opposed to the unconstitutional notion that members of  
26 Congress benevolently bestow rights and privileges upon the people.

1 *Facebook’s Defamatory Emergency News Statement*  
2 *in response to Genevieve’s “Our Capitol” Post and other protestors’ photo posts*

3 81. A few hours after Genevieve posted her “Our Capitol” photograph on the Internet  
4 through Instagram, Facebook’s executive leadership team on behalf of Facebook published  
5 to the general public, including on the Internet and to Instagram groups and communities  
6 such as the @fur.meme group, a written emergency statement from its Newsroom.

7 82. This emergency statement declared that those protestors posting photographs at  
8 the Capitol were inciting, encouraging, and promoting criminal activity.

9 83. And Facebook’s leadership team further explained to the public that the photos  
10 themselves “represent promotion of criminal activity which violates [Facebook’s] policies.”

11 84. At approximately 7:00 p.m. Eastern on January 6, 2021, authorized Facebook  
12 representatives Guy Rosen, Vice President of Integrity, and Monika Bickert, Vice  
13 President of Global Policy Management, published from Facebook’s Newsroom a written  
14 emergency news statement on behalf of Facebook.

15 85. This written emergency news statement was entitled, “Our Response To The  
16 Violence in Washington” (the “Emergency News Statement”). It was published by  
17 Facebook’s Newsroom from its “Elections Operations Center” to the public on the Internet,  
18 including social media groups and communities such as the @fur.meme Instagram group.<sup>16</sup>

19 86. The Emergency News Statement stated in relevant part:

20 Let us speak for the leadership team in saying what so many of us  
21 are feeling. We are appalled by the violence at the Capitol today.  
22 We are treating these events as an emergency. Our Elections  
23 Operations Center has already been active in anticipation of the  
24 Georgia elections and the vote by Congress to certify the election,  
25 and we are monitoring activity on our platform in real time. For  
26 those of you who are wondering, here are the actions we’re taking:

27 First, we have been searching for and removing the following  
28 content:

- Praise and support of the storming of the Capitol.

<sup>16</sup> See <https://about.fb.com/news/2021/01/responding-to-the-violence-in-washington-dc/> (last visited Jan. 15, 2023).



- 1 • Calls to bring weapons to locations across the US — not just
- 2 in Washington but anywhere in the US — including
- 3 protests.
- 4 • Incitement or encouragement of the events at the Capitol,
- 5 including videos and photos from the protestors. At this
- 6 point they represent promotion of criminal activity which
- 7 violates our policies.
- 8 • Calls for protests — even peaceful ones — if they violate the
- 9 curfew in DC.
- 10 • Attempts to restage violence tomorrow or in the coming
- 11 days.

87. The Emergency News Statement further stated in relevant part:

9 We've had emergency measures in place since before the US  
10 elections like not recommending civic groups for people to join.  
11 We're keeping them in place. Today we're implementing several  
12 additional ones as well, including:

- 12 • Increasing the requirement of Group admins to review and
- 13 approve posts before they can go up.
- 14 • Automatically disabling comments on posts in Groups that
- 15 start to have a high rate of hate speech or content that
- 16 incites violence, and
- 17 • Using AI to demote content that likely violates our policies.

18 88. Facebook executives concluded the Emergency News Statement by assuring the  
19 public they were continuing to monitor the situation and would take additional measures if  
20 necessary to keep people safe.

21 89. Soon after Facebook executives published the Emergency News Statement, the  
22 Furman Conservative Society asked Genevieve to delete her “Our Capitol” photograph  
23 from the Internet and Instagram, because it feared for Genevieve’s safety and well-being as  
24 well as the club’s image.

25 90. Genevieve did not delete the image. However, Facebook blocked Internet access to  
26 Genevieve’s “Our Capitol” photo content, by disabling and deleting her Instagram account  
27 approximately six days later on January 12, 2021.

28 91. Genevieve did not receive pre-deprivation or post-deprivation hearings from



1 Facebook, Instagram, Meta, or Facebook’s Oversight Board prior to Facebook blocking and  
 2 restricting Internet access to Genevieve’s “Our Capitol” photo content, by disabling and  
 3 deleting her Instagram account on January 12, 2021.

4 *Facebook’s False and Defamatory Emergency News Statement*  
 5 *was of and concerning Genevieve by reasonable implication, and it was*  
 6 *understood within her Instagram Group and Community to actually refer to Genevieve*

7 A. *Genevieve’s Instagram Group and Furman Community— @fur.meme.*

8 92. Facebook’s Emergency News Statement was false and untrue and defamatory on its  
 9 face, because it was published to the public, including Genevieve’s @fur.meme Instagram  
 10 group and community, and it stated the Capitol protestors’ published photos “represent  
 11 promotion of criminal activity.”

12 93. Genevieve’s professors at Furman had encouraged Genevieve to network with  
 13 Furman alumni to establish and strengthen her connection with the Furman family.

14 94. This included recommendations to join Furman-related social media sites and  
 15 platforms that provide Internet access, such as Instagram.

16 95. These professors advised Genevieve this networking with Furman alumni would be  
 17 very beneficial to her future employment prospects and increased economic status when  
 18 she sought future employment after graduating from Furman.

19 96. Furman’s alumni association’s website touts the significance and importance of the  
 20 global Furman family and alumni, and the website<sup>17</sup> states as follows:

21 No matter where you are in life, you’ll always be a part of the  
 22 Furman family. Strengthen your connection to our passionate  
 23 community and discover how our alumni and friends support one  
 24 another. Network with leaders in your field. Connect with your  
 25 classmates at homecoming. And volunteer for causes that support  
 the next generation of Paladins. By being an active part of the  
 Furman family, you’re not simply giving—you’re reconnecting  
 with your biggest supporters.

26 97. Instagram’s @fur.meme group was the main vehicle outside of school functions, by

27  
 28 <sup>17</sup> See <https://www.furman.edu/alumni/connect/alumni-association> (last visited Jan. 15, 2023).

1 which Genevieve actively engaged with her fellow Furman students, professors, school  
2 officials, and alumni to network and strengthen her connection with the Furman family.

3 B. *Genevieve’s Furman community and the @fur.meme Instagram Group understood*  
4 *Facebook’s Emergency News Statement actually referred to Genevieve*

5 98. A few hours after Genevieve’s “Our Capitol” photograph and post on the Internet  
6 through Instagram, followed by Facebook’s Emergency News Statement published to the  
7 general public, @fur.meme published a series of posts recognizing the Emergency News  
8 Statement actually referred to Genevieve by implication.

9 99. @fur.meme recognized and understood Facebook’s Emergency News Statement  
10 actually referred to Genevieve by implication, because Bickert and Rosen specifically  
11 explained to the public in the Emergency News Statement that the protestors’ photos  
12 “represent promotion of criminal activity which violates our policies.”

13 100. @fur.meme knew Genevieve was one of only two Furman student protestors at the  
14 Capitol Breach events “sharing pictures on their public Instagram accounts.”

15 101. @fur.meme had recognized Genevieve’s “Our Capitol” photo that she posted on the  
16 Internet through Instagram prior to Facebook executives Bickert and Rosen publishing the  
17 Emergency News Statement.

18 102. And when Bickert and Rosen later claimed in the Emergency News Statement  
19 that protestors’ photos at the Capitol events “represent promotion of criminal activity,”  
20 @fur.meme and others in this Instagram group seized upon Facebook’s statement since it  
21 *linked* the posting of photos at the U.S. Capitol with the “promotion of criminal activity.”

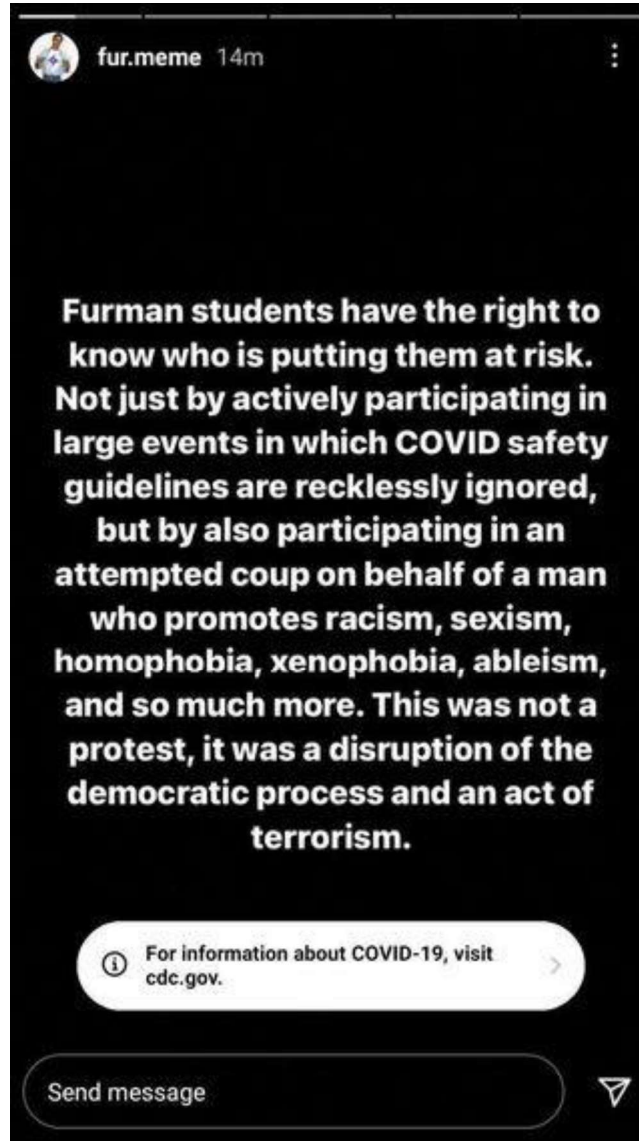
22 103. Based on Bickert and Rosen’s Emergency News Statement, Genevieve’s  
23 @fur.meme Instagram group made this direct connection because Genevieve had been one  
24 of only two Furman student protestors at the Capitol that day on January 6, 2021, posting  
25 photos to her Instagram account — a very small group.

26 104. Thus, @fur.meme made the following series of posts on the Internet through  
27 Instagram evidencing it was understood within the Furman community and @fur.meme  
28 group that the Emergency News Statement actually referred to Genevieve by implication:

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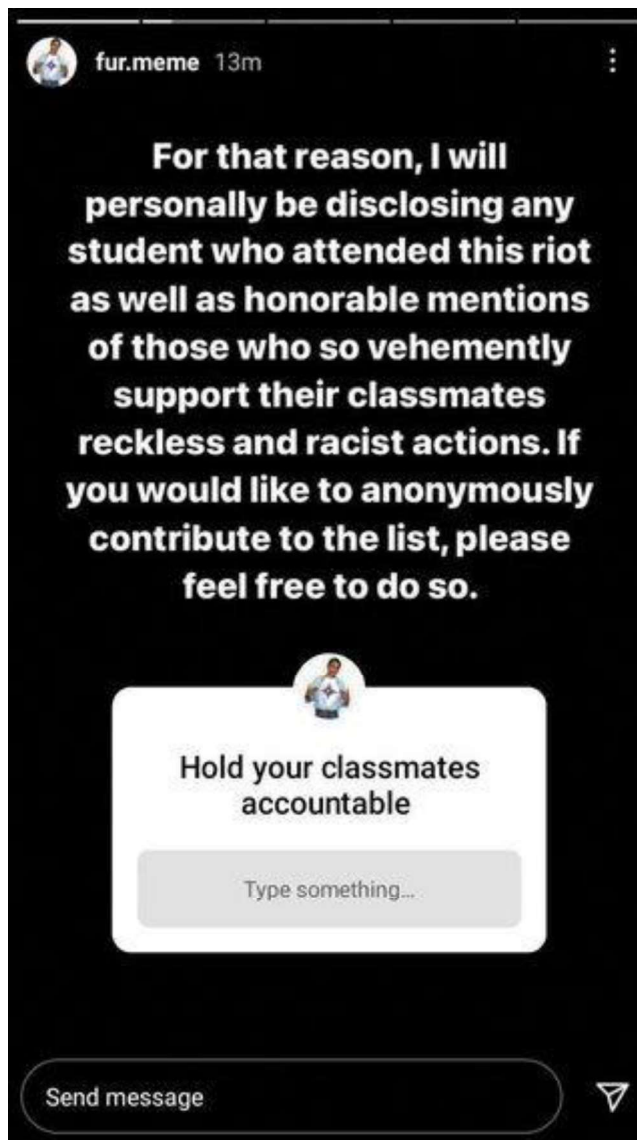
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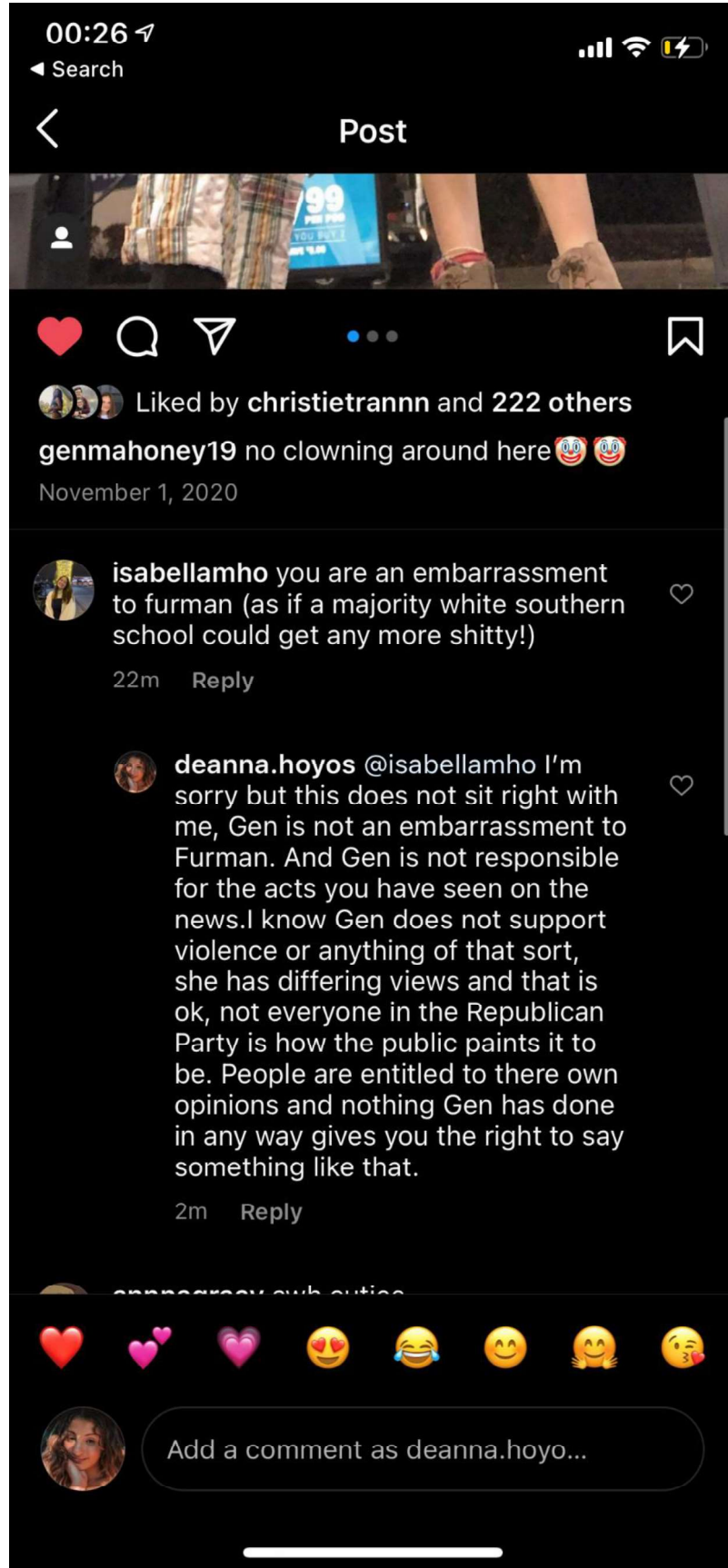


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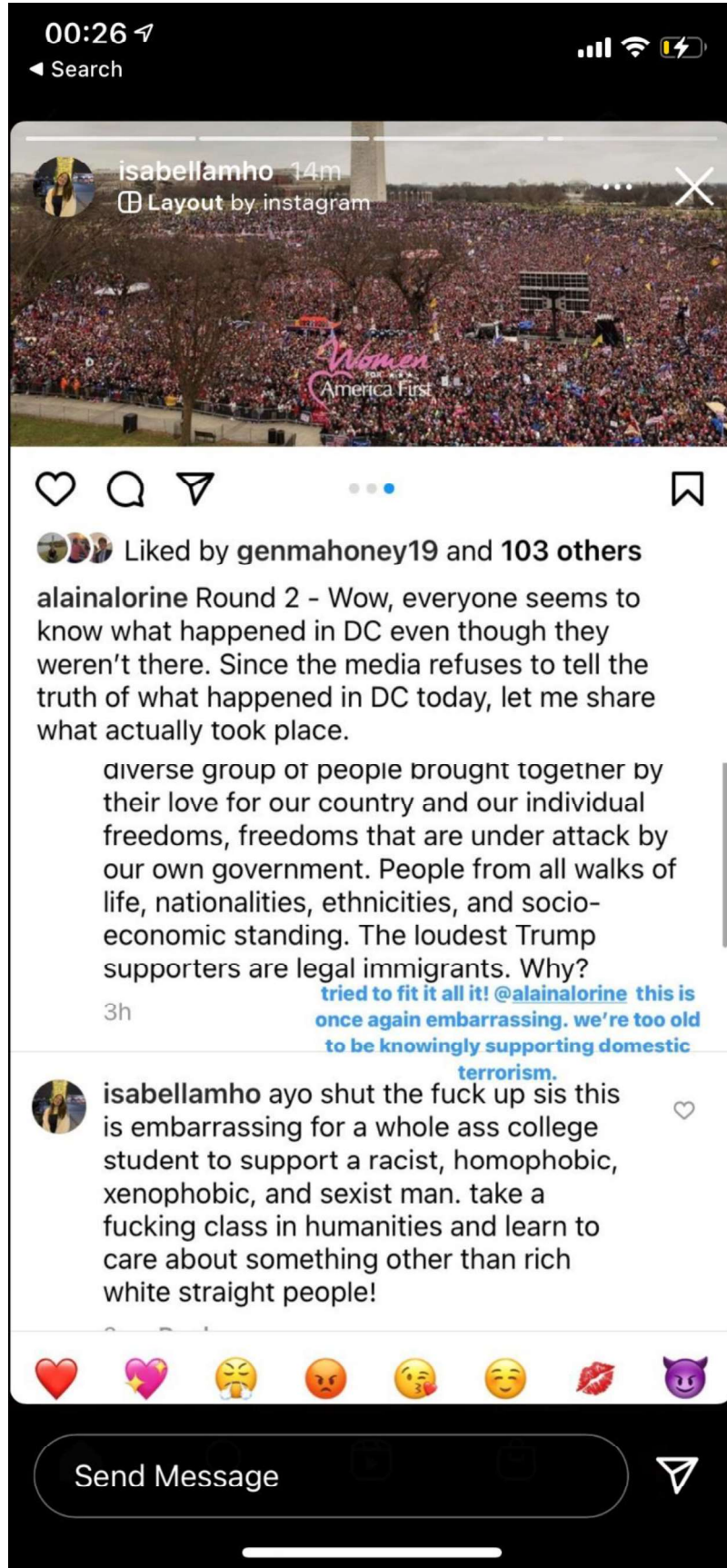




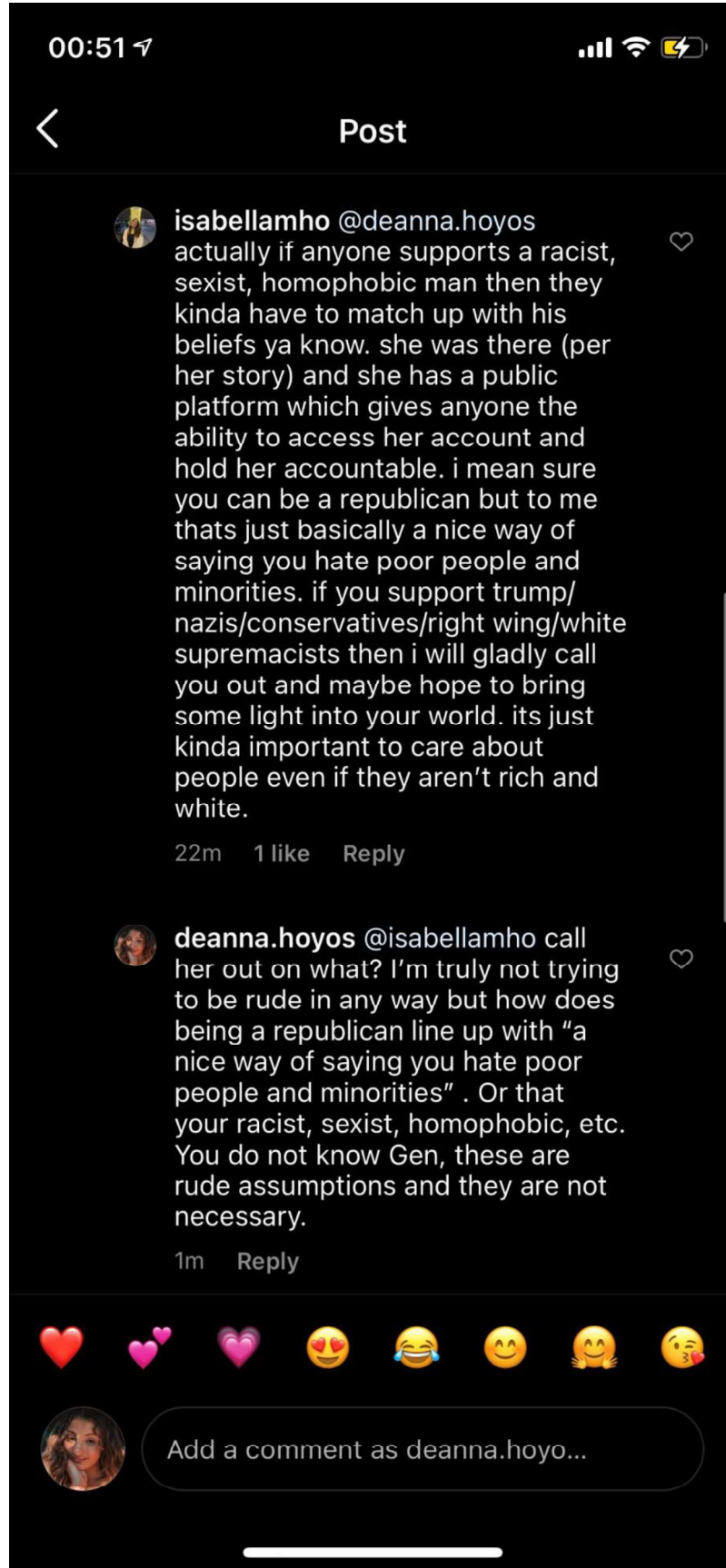
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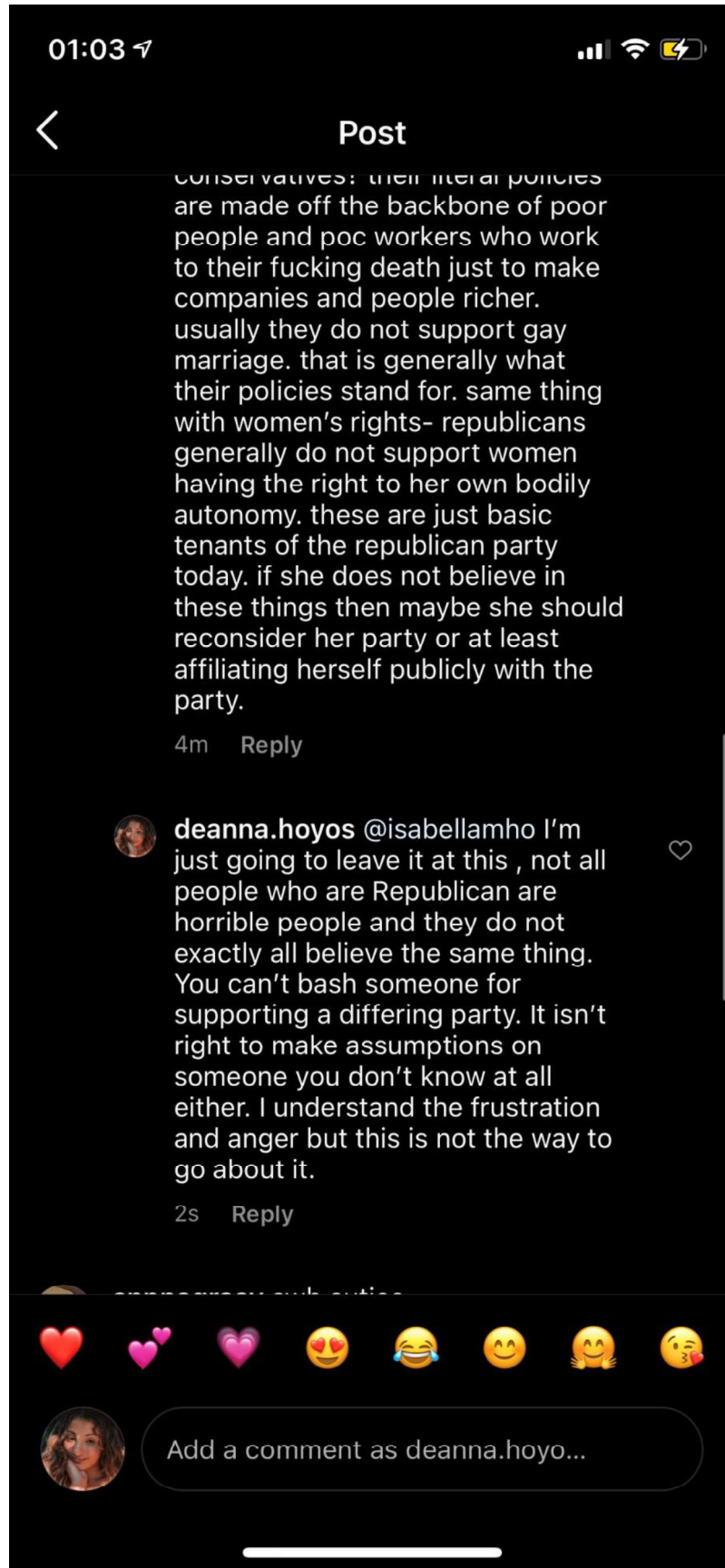
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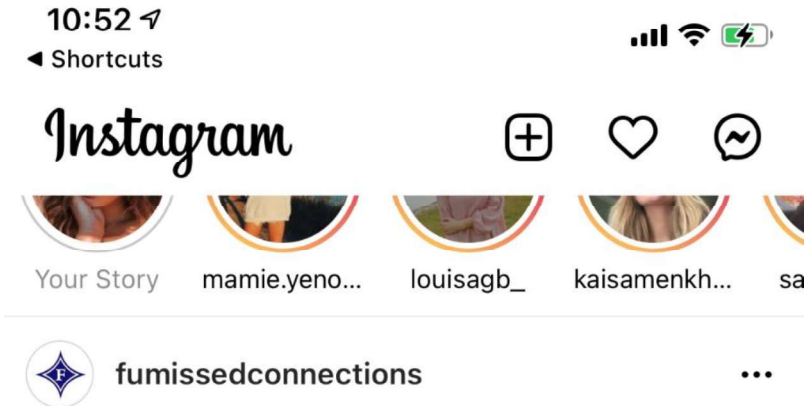


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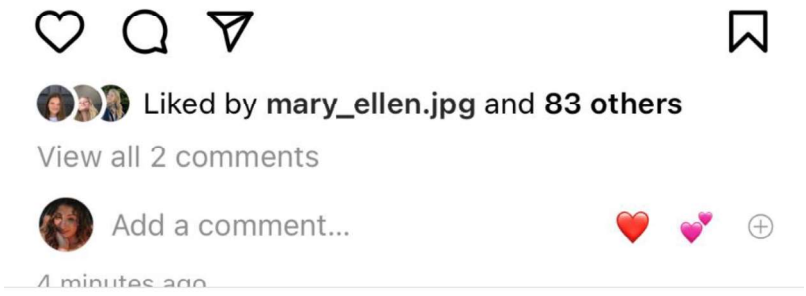


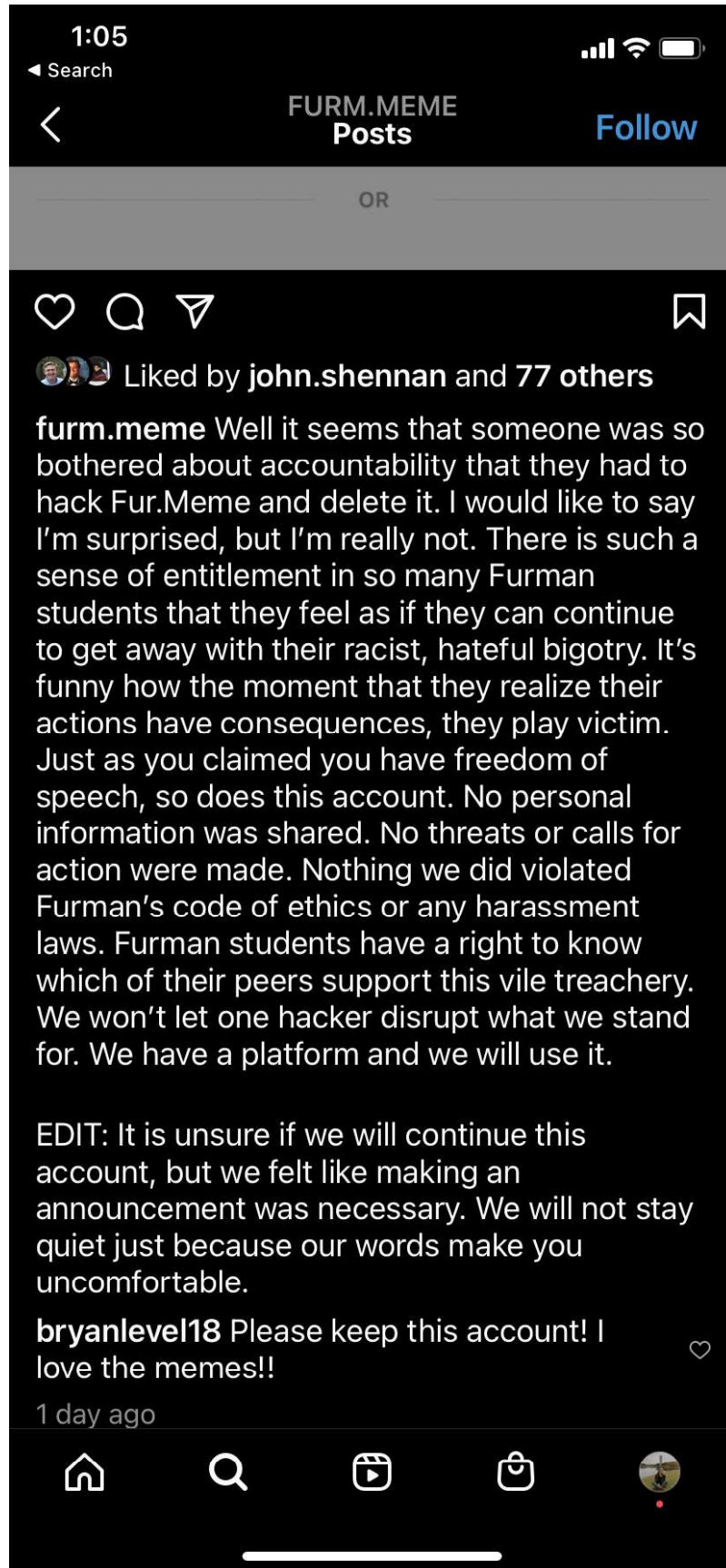


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I'm just gonna say this. That I really did not think needed to be said but... liking and supporting racist ideologies makes you a racist. That includes attending a "protest", liking a post, liking a comment on a post, and voting. The minorities of furman the little of us that there are need to be aware on who's with us and who will blatantly disrespect us. I need to know who to block, unfollow and avoid at all costs





1 105. Soon after Genevieve returned to campus at Furman after the Rally, a school  
2 newspaper chronicled the fallout from the @fur.meme account that recognized Genevieve  
3 and another Furman student attended the Rally and posted photos to their social media  
4 accounts.

5 106. The article described the intense political polarization on campus with Furman's  
6 President, faculty members, and officials weighing in on the two Furman students  
7 (including Genevieve and another Furman student) attending the Rally and the flurry of  
8 public comments by @fur.meme.<sup>18</sup>

9 107. January 6, 2021, is now an infamous date in American history. Even newly elected  
10 United States President Joe Biden in his address to Congress called it, "the worst attack on  
11 our democracy since the Civil War."

12 108. As a result of Facebook's false and defamatory Emergency News Statement  
13 published by Rosen and Bickert to the public that is of and concerning Genevieve by  
14 reasonable implication, that Genevieve's Furman community and @fur.meme Instagram  
15 group understood to actually refer to Genevieve, her reputation has been severely damaged  
16 within the Furman community, including her reputation with Furman students, faculty  
17 members, school officials, and alumni.

18 109. Genevieve has suffered economic damages as to her future employment status and  
19 reputational harm damages in being falsely linked by reasonable implication to those  
20 protestors on January 6, 2021, that committed crimes or posted photos on the Internet  
21 through social media platforms that "represent promotion of criminal activity."

22 *Facebook tried to downplay its role in the*  
23 *Breach of the Capitol*

24 110. A few days after the Breach of the Capitol, Facebook attempted to downplay its  
25 role in facilitating the breach and the coordination of some of those protestors charged with  
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28 <sup>18</sup> See <https://thepaladin.news/articles/2021/01/27/administrations-responds-to-political-polarization-on-campus-following-jan-6-protest> (last visited Jan. 15, 2023).



1 crimes using Facebook’s social media platforms.<sup>19</sup>

2 111. For example, Sheryl Sandberg, Facebook’s chief operating officer at the time, tried  
3 to publicly deflect criticism away from Facebook and Instagram and onto other social  
4 media sites and platforms for the root cause of the Breach of the Capitol.<sup>20</sup>

5 112. After this lawsuit was originally filed in 2021, Sandberg stepped down and  
6 resigned from her position at Facebook in June of 2022, and she is being investigated by  
7 Meta for various possible acts of misconduct, including misuse of company resources.<sup>21</sup>

8 113. Several reports stated that the Capitol Breach was openly pre-planned on various  
9 social media sites including Facebook in the days leading up to January 6, 2021, and that  
10 new Facebook “groups” and “communities” had surfaced just before the Capitol Breach to  
11 assist in organizing and carrying out the breach of the Capitol.<sup>22</sup>

12 114. Facebook knew that it contributed to the Capitol Breach events and facilitated the  
13 actions of some individuals in carrying out the crimes for which they were charged, and  
14 that Facebook’s platform assisted those in coordinating and carrying out their criminal  
15 activities related to the Breach of the Capitol.

16 115. Facebook employees later discussed missing “warning signs” and documents were  
17 turned over to the SEC as has been reported.<sup>23</sup>

18 *Facebook Whistleblower Frances Haugen – The Facebook Files, Facebook Papers,*  
19 *and the House Select Committee on January 6 Final Report*

20 116. Later, a Facebook whistleblower accused Facebook and its leadership of  
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22 <sup>19</sup> See <https://www.forbes.com/sites/thomasbrewster/2021/02/07/sheryl-sandberg-downplayed-facebooks-role-in-the-capitol-hill-siege-justice-department-files-tell-a-very-different-story/?sh=50aae5b510b3> (last visited Jan. 15, 2023).

23 <sup>20</sup> See *id.*

24 <sup>21</sup> See <https://www.forbes.com/sites/madelinehalpert/2022/06/10/meta-investigation-into-sheryl-sandbergs-use-of-company-resources-reaches-back-several-years-report-says/?sh=6dd1c4d72a7d> (last visited Jan. 15, 2023).

25 <sup>22</sup> See <https://www.foxnews.com/politics/how-wednesdays-capitol-riot-come-to-fruitation> (last  
26 visited Jan. 15, 2023).

27 <sup>23</sup> See <https://www.washingtonpost.com/technology/2021/10/22/jan-6-capitol-riot-facebook/>  
28 (last visited Jan. 15, 2023).

1 contributing to the January 6, 2021, Breach of the U.S. Capitol.<sup>24</sup>

2 117. Facebook's whistleblower was identified as Frances Haugen, and she testified  
3 before Congress in October of 2021, after this lawsuit was initially filed.

4 118. Among other things, Haugen testified that Facebook executives, including CEO  
5 Mark Zuckerberg, misstated and omitted key details about what was known about  
6 Facebook and Instagram's ability to cause mental health harm to its users.

7 119. And she further testified that Facebook employees and executives knew how  
8 organizers of the Jan. 6 Capitol siege used its platform to carry out the Capitol breach.<sup>25</sup>

9 120. As part of her testimony before Congress, Haugen and her attorneys also released  
10 thousands of pages of internal Facebook documents to various federal officials as first  
11 reported by the Wall Street Journal.

12 121. These internal documents are known as the Facebook Files. These internal  
13 documents released by whistleblower Haugen have also been referred to as the Facebook  
14 Papers in a series of publications released to the public by a consortium of news  
15 organizations.<sup>26</sup>

16 122. For example, in an NPR report and review of the Facebook Files, it was revealed  
17 that Facebook executives knew they failed to curb the proliferation of the Stop the Steal  
18 movement leading to the January 6 Capitol Breach.<sup>27</sup>

19 123. This report noted that inside the company, warnings about how the platform  
20 encouraged groups to grow quickly were getting louder. In its internal report, Facebook  
21 acknowledged something striking: It "helped incite the Capitol Insurrection" on Jan. 6.<sup>28</sup>

22  
23 <sup>24</sup> See <https://www.nytimes.com/2021/10/02/technology/whistle-blower-facebook-memo.html>  
(last visited Jan. 15, 2023).

24 <sup>25</sup> See [https://www.npr.org/2021/10/05/1043377310/facebook-whistleblower-frances-haugen-  
25 congress#:~:text=Haugen%20worked%20at%20Facebook%20for,was%20exploited%20by%20  
26 0foreign%20adversaries.](https://www.npr.org/2021/10/05/1043377310/facebook-whistleblower-frances-haugen-congress#:~:text=Haugen%20worked%20at%20Facebook%20for,was%20exploited%20by%20foreign%20adversaries.) (last visited Jan. 15, 2023).

26 <sup>26</sup> See [https://gizmodo.com/we-re-making-the-facebook-papers-public-here-s-why-and-  
27 1848083026](https://gizmodo.com/we-re-making-the-facebook-papers-public-here-s-why-and-1848083026) (last visited Jan. 22, 2023).

27 <sup>27</sup> See <https://www.npr.org/2021/10/22/1048543513/facebook-groups-jan-6-insurrection> (last  
28 visited Jan. 22, 2023).

<sup>28</sup> See *id.*

1 124. In another report of the Facebook Files, whistleblower Haugen alleged that the  
2 trove of internal statements and data prove that Facebook's leaders have repeatedly and  
3 knowingly put the company's image and profitability ahead of the public good — even at  
4 the risk of violence and other harm.<sup>29</sup>

5 125. As the Breach of the Capitol “horrified audiences in the U.S. and elsewhere,  
6 Facebook employees aired their frustration and anger.”<sup>30</sup>

7 126. For example, one Facebook employee wrote on an internal message board about  
8 January 6, saying, “We've been fueling this fire for a long time and we shouldn't be  
9 surprised it's now out of control.”<sup>31</sup>

10 127. But Facebook’s leadership denied the reality of its culpability during the Capitol  
11 Breach even to its employees. For example, Facebook’s chief technology officer Mike  
12 Schroepfer, wrote on an internal message board, “Hang in there everyone.” And he  
13 explained to employees the company’s approach to the riot.<sup>32</sup>

14 128. But Schroepfer’s attempt to assuage Facebook employees did not resonate with the  
15 employees themselves. For example, in response to Schroepfer's message, Facebook  
16 employees as a group said it was too little too late. And one Facebook employee wrote, “I  
17 came here hoping to effect change and improve society, but all I've seen is atrophy and  
18 abdication of responsibility.”<sup>33</sup>

19 129. In a statement to NPR, Facebook spokesman Andy Stone continued the company’s  
20 public denial and downplayed its role in the Capitol Breach first publicly stated by  
21 Sandberg. Stone echoed Sandberg and Facebook’s talking points by saying to NPR, “The  
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25 <sup>29</sup> See <https://www.npr.org/2021/10/25/1049015366/the-facebook-papers-what-you-need-to-know> (last visited Jan. 22, 2023).

26 <sup>30</sup> See *id.*

27 <sup>31</sup> See *id.*

28 <sup>32</sup> See *id.*

<sup>33</sup> See *id.*

1 responsibility for the violence that occurred on January 6 lies with those who attacked our  
2 Capitol and those who encouraged them.”<sup>34</sup>

3 130. But the Facebook Files and Facebook Papers do not reveal that Genevieve’s “Our  
4 Capitol” photo content “represents promotion of criminal activity” that Rosen and Bickert  
5 falsely claimed of the protestors’ photos in the Emergency News Statement.

6 131. On December 22, 2022, after this lawsuit was filed, the House Select Committee  
7 on January 6 Final Report was released, and it does not state in the report that  
8 Genevieve’s “Our Capitol” photo content and communicative message “represents  
9 promotion of criminal activity.”<sup>35</sup>

10 *Facebook executives knew the Emergency News Statement was false or*  
11 *had serious doubts about the truth of the Emergency News Statement*

12 132. The specific language Facebook’s leadership team used in publishing the  
13 Emergency News Statement to the public was calculated to deflect criticism away from  
14 Facebook’s culpability in the Capitol Breach and onto *all* the protestors, including lawful  
15 protestors such as Genevieve.

16 133. The specific language Facebook’s leadership team used in publishing the  
17 Emergency News Statement to the public was further calculated to severely damage the  
18 reputation of *all* the protestors, including the reputations of those lawful protestors such as  
19 Genevieve.

20 134. The precise and artful use of the words “inciting, encouraging, or promoting  
21 criminal activity” and “violence,” and those photos “represent promotion of criminal  
22 activity” used by Bickert and Rosen in the Emergency News Statement were nearly  
23 verbatim from 18 U.S.C. §§ 2101-2102.

24 135. Bickert and Rosen deliberately calculated their use and choice of words to label *all*  
25 protestors as criminals and that *all* photos “represent promotion of criminal activity,” even

26 \_\_\_\_\_  
27 <sup>34</sup> See *id.*

28 <sup>35</sup> See <https://www.govinfo.gov/collection/january-6th-committee-final-report?path=/GPO/January%206th%20Committee%20Final%20Report%20and%20Supporting%20Materials%20Collection> (last visited Jan. 22, 2023).

1 though most protestors, like Genevieve, did not commit crimes, and most photos, like  
2 Genevieve’s “Our Capitol” photo, did not “represent promotion of criminal activity.”

3 136. Bickert, one of the authors of the Emergency News Statement on behalf of  
4 Facebook, is a Harvard-trained lawyer and former federal prosecutor.<sup>36</sup>

5 137. Thus, Bickert was well versed in the specific and artful legal language used in  
6 federal criminal statutes.

7 138. Well-trained federal prosecutors, whether current or former, typically do not  
8 loosely throw around words in an undisciplined and reckless manner. Well-trained former  
9 federal prosecutors do not use such inflammatory words like “inciting, encouraging, or  
10 promoting criminal activity” and “violence” or state that photos “represent promotion of  
11 criminal activity” in a situation like January 6 before all the facts have been thoroughly  
12 reviewed.

13 139. These words ordinarily would never be used in such a cavalier manner under  
14 circumstances like January 6 by well-trained former federal prosecutors, because  
15 prosecutors make prosecutorial decisions after there has been a thorough investigation of  
16 the facts by law enforcement to determine if crimes were committed to then prosecute. And  
17 Bickert knows this, as would any first-year law student.

18 140. But Bickert knew that by using the words “inciting, encouraging, or promoting  
19 criminal activity” and “violence,” and those photos “represent promotion of criminal  
20 activity” she and Rosen used in the Emergency News Statement, *all* the protestors would  
21 be labeled, perceived, or implicated as criminals.

22 141. And Bickert knew all protestors would be harmed by such a false implication, such  
23 as lawful protestors like Genevieve, who did not incite, encourage, or promote criminal  
24 activity or violence and whose “Our Capitol” photo did not “represent promotion of criminal  
25 activity.”

26 142. With her legal background and acumen, Bickert further knew that when she and  
27

28 <sup>36</sup> See <https://cyber.harvard.edu/people/monika-bickert> (last visited Jan. 15, 2023).  
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1 Rosen published the Emergency News Statement on behalf of Facebook to the public, *all*  
2 the protestors posting photographs on the Internet through Facebook-related platforms  
3 including Instagram, like Genevieve’s “Our Capitol” post, were not inciting, encouraging, or  
4 promoting criminal activity or violence by their posts or by their photos.

5 143. With her legal background and acumen, Bickert further harbored serious doubts  
6 as to the truth of the Emergency News Statement she and Rosen published on behalf of  
7 Facebook to the public, because she knew as evidenced from internal reports in the  
8 Facebook Files that Facebook knew it contributed to the Capitol Breach, and that *all*  
9 protestors were not criminally responsible for the Capitol Breach.

10 144. Therefore, she had serious doubts when she and Rosen published the Emergency  
11 News Statement that *all* the protestors posting photographs on the Internet through  
12 Facebook-related platforms including Instagram, like Genevieve’s “Our Capitol” post, were  
13 promoting criminal activity by their published photos.

14 145. By the very words used in the Emergency News Statement that they were still  
15 “searching for content” in “real time,” Bickert and Rosen acknowledged that they and other  
16 employees had not even reviewed and assessed *all* the photos being posted to its platforms  
17 such as Instagram to see whether such photos violated any policies or “represent promotion  
18 of criminal activity.”

19 146. It logically follows that if Facebook executives had not reviewed *all* photos when it  
20 published the Emergency News Statement because they said they were “searching for  
21 content” in “real time,” then Rosen and Bickert harbored serious doubts that *all* protestors’  
22 photos “represent promotion of criminal activity.”

23 147. Upon information and belief, neither Rosen and Bickert nor any other Facebook  
24 employee reviewed Genevieve’s “Our Capitol” photo content she posted on January 6, 2021,  
25 when the Emergency News Statement was published, because it took Facebook and  
26 Instagram *six more days* to disable Genevieve’s Instagram account and delete her “Our  
27 Capitol” photo content on January 12, 2021.

28 148. Bickert and Rosen clearly harbored serious doubts as to the truth of the

1 Emergency News Statement that *all* protestors’ photos “represent promotion of criminal  
2 activity” when they published it, because they were still searching in “real time” for *all* of  
3 the photos to determine if the photos “represent promotion of criminal activity.”

4 **CLAIMS FOR RELIEF**

5 **COUNT I**

6 **Defamation (Libel Per Se)**

7 149. The allegations in all preceding paragraphs are incorporated herein by reference.

8 150. A statement is defamation per se if it defames the plaintiff on its face, without the  
9 need for extrinsic evidence to explain the statement’s defamatory nature. *Yow*, 550 F.  
10 Supp. 2d at 1183; *see* Cal. Civ. Code § 45a.

11 151. “An allegation that a plaintiff is guilty of a crime is libelous on its face.” *Fashion*  
12 *21*, 117 Cal. App. 4th at 1145 n.7; *see also Barnes-Hind*, 181 Cal. App. 3d at 385.

13 152. Statements which falsely impute the commission of a crime are libelous on their  
14 face. *See Snider*, 1992 U.S. Dist. Lexis at \*15.

15 153. “The First Amendment requires a plaintiff to establish that the statement on  
16 which the defamation claim is based is ‘of and concerning’ the plaintiff.” *D.A.R.E.*  
17 *America*, 101 F. Supp. 2d at 1289.

18 154. “Under California law, there is no requirement that the person defamed be  
19 mentioned by name. It is sufficient if the jury can infer from the evidence that the  
20 defamatory statement applies to the plaintiff, or if the publication points to the plaintiff by  
21 description or circumstances tending to identify him.” *Flynn*, 744 F.2d at 697.

22 155. Here, Facebook executives Bickert and Rosen published the written Emergency  
23 News Statement on behalf of Facebook to the general public on the Internet through its  
24 Facebook platform including to the @fur.meme Instagram group.

25 156. The Emergency News Statement was not opinion or hyperbole. Rather, the  
26 Emergency News Statement was a statement of fact.

27 157. The Emergency News Statement published by Facebook’s leadership team stated  
28 that Facebook was searching in “real time” for the following content:



- Incitement or encouragement of the events at the Capitol, including videos and photos from the protestors. At this point they represent promotion of criminal activity which violates our policies.

158. Although Genevieve was not specifically mentioned by name in the Emergency News Statement, it refers to Genevieve by reasonable implication.

159. Instagram’s @fur.meme group’s flurry of posts evidenced it was understood within Instagram’s @fur.meme group and Furman community that under the circumstances, the Emergency News Statement referred to Genevieve by reasonable implication.

160. This is known since Genevieve was one of only two Furman student protestors near the Capitol Breach events on January 6, 2021, posting photos on the Internet through her Instagram account.

161. The first post @fur.meme published after Facebook published the Emergency News Statement stated, “it has been made clear” that “@genmahoney19” was one of two Furman student protestors attending the “violent Pro-Trump event.”

162. @fur.meme continued and stated, “This information is known by pictures they have shared on their public Instagram account.”

162. The @fur.meme Instagram group and Furman community reasonably understood the Emergency News Statement to mean that Genevieve’s “Our Capitol” photo “represents promotion of criminal activity.”

163. The Emergency News Statement is false and untrue, because Genevieve’s “Our Capitol” photo content she published on the Internet through her Instagram account did not “represent promotion of criminal activity.”

164. And the Emergency News Statement is provably false, because Genevieve has never been charged with a crime related to her “Our Capitol” photo content she posted on the Internet through her Instagram account on January 6, 2021, in Washington, D.C. while she was a protestor positioned near the United States Capitol.

165. First, Genevieve is not being prosecuted for a crime by the United States Attorney for the District of Columbia for posting and publishing her “Our Capitol” photo content and

1 communicative message on January 6, 2021.

2 166. Second, the House Select Committee on January 6 Final Report does not state in  
3 the report that Genevieve’s “Our Capitol” photo content and communicative message  
4 “represents promotion of criminal activity.”

5 167. Bickert and Rosen acted with actual malice because they knew the Emergency  
6 News Statement that all protestors’ photos “represent promotion of criminal activity” was  
7 false when they published it. They knew it was false because they and Facebook employees  
8 had not even reviewed and evaluated *all* the photos to determine if they “represent  
9 promotion of criminal activity” at the time they published the Emergency News Statement.

10 168. Bickert and Rosen acted with actual malice because they harbored serious doubts  
11 as to the truth of the Emergency News Statement that all protestors’ photos “represent  
12 promotion of criminal activity” when they published it. They harbored serious doubts as to  
13 its truth because they and Facebook employees had not even reviewed and evaluated *all*  
14 the photos to determine if they “represent promotion of criminal activity” at the time they  
15 published the Emergency News Statement.

16 169. “A defamation per se claim is actionable without proof of special damages.” *Yow*,  
17 550 F. Supp. 2d at 1183.

18 170. Genevieve’s reputation has been harmed by Facebook’s false and untrue  
19 Emergency News Statement.

20 171. As a result, Facebook’s wrongful conduct was a substantial factor in causing harm  
21 to Genevieve’s reputation.

22 172. As a result, Facebook’s wrongful conduct was a substantial factor in causing  
23 Genevieve shame, mortification, or hurt feelings.

24 173. As a result, Facebook’s wrongful conduct was a substantial factor in causing harm  
25 to Genevieve’s future occupation and profession upon her graduation from college.

26 174. Genevieve is seeking compensatory damages.

27 175. Genevieve is further seeking punitive damages to punish Facebook for its own  
28 false and untrue Emergency News Statement and not the speech of third parties. Facebook

1 acted with malice, oppression, or fraud when Bickert and Rosen published the Emergency  
2 News Statement.

3 **REQUEST FOR RELIEF**

4 Plaintiff Genevieve Mahoney respectfully requests that this Court:

- 5 a. Award her compensatory damages against Facebook for Defamation (Libel Per  
6 Se) in an amount not less than \$56,000,000.00;
- 7 b. Award her punitive damages against Facebook for Defamation (Libel Per Se) in  
8 an amount not less than \$56,000,000.00;
- 9 c. Order Facebook to retract the Emergency News Statement from its social media  
10 platform and issue a public apology to Genevieve Mahoney; and
- 11 d. Award any further relief to which she may be entitled including reasonable  
12 attorneys' fees and costs if they are applicable.

13  
14 Dated: March 2, 2023

Respectfully submitted,

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