

June 28, 2018

Jennifer Utrecht
Scott McIntosh
Department of Justice
Civil Division, Appellate Staff
950 Pennsylvania Ave, NW
Room 7710
Washington, DC 20530

**Re: *Knight First Amendment Institute v. Trump*,
No. 18-1691 (2d Cir.), No. 17-CV-5205 (SDNY)**

Dear Ms. Utrecht and Mr. McIntosh,

As you know, on May 23, 2018, the district court ruled in the above-referenced case that defendants' viewpoint-based blocking of individuals from the @realDonaldTrump Twitter account violates the First Amendment. Several days after the Court's ruling, you informed us that the individual plaintiffs' access to the @realDonaldTrump account had been restored. Unfortunately, defendants continue to block many other individuals from the account. *See, e.g., Hadas Gold, Trump Unblocks Some, But Not All Twitter Users*, CNN Money (June 5, 2018). Some of these individuals have reached out to us since the district court issued its decision. It appears to us that all or nearly all of these individuals were blocked from the @realDonaldTrump account because they criticized President Trump or his policies.

We write now to ask that defendants unblock these individuals from the @realDonaldTrump account. We recognize that the district court's ruling does not expressly require defendants to take this action. That ruling made clear, however, that defendants' blocking of individuals from the account on the basis of viewpoint is unconstitutional. We note also that the Supreme Court has recently treated President Trump's tweets as official statements, *Trump v. Hawaii*, No. 17-965, 2018 WL 3116337, at *19 (June 26, 2018), effectively endorsing a key premise of the district court's analysis, *see* Brian Fung, *The Supreme Court's Travel Ban Ruling Could Have Big Implications for Trump's Twitter Account*, Wash. Post (June 26, 2018). Further, the action we

propose here would obviate the need for litigation in the district court while defendants' appeal is pending in the Second Circuit.

Defendants should be able to determine readily which Twitter users have been blocked from the @realDonaldTrump account. If it would be helpful to you, however, we will provide you with a list of the individuals who have reached out to us, along with information we have collected about the tweets that apparently provoked defendants to block them from the @realDonaldTrump account.¹

Thank you in advance for your prompt response.

Sincerely,



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¹ To be clear, we do not currently represent any of these individuals. They have indicated to us, however, that they would be comfortable with our sharing this information with you.