

Twitter lawsuit seeks over \$250M alleging anti-conservative 'shadow bans,' smears

 Gregg Re

By [Gregg Re](#) | [Fox News](#)

- [Facebook](#)
- [Twitter](#)
- [Flipboard](#)
- [Comments](#)
- [Print](#)
- [Email](#)

[close](#)

[Twitter CEO admits they were 'too aggressive' in banning conservatives](#)

California GOP Rep. [Devin Nunes](#) filed a major lawsuit seeking \$250 million in compensatory damages and \$350,000 in punitive damages against Twitter and a handful of its users on Monday, accusing the social media site of "shadow-banning conservatives" including himself to influence the 2018 elections, systematically censoring opposing viewpoints and totally "ignoring" lawful complaints of repeated abusive behavior.

In a [complaint](#) filed in Virginia state court on Monday, obtained by Fox News, Nunes claimed Twitter wanted to derail his work on the House Intelligence Committee, which he chaired until 2019, as he looked into [alleged and apparent surveillance abuses](#) by the government. Nunes said Twitter was guilty of "knowingly hosting and monetizing content that is clearly abusive, hateful and defamatory – providing both a voice and financial incentive to the defamers – thereby facilitating defamation on its platform."


The lawsuit alleged defamation, conspiracy and negligence, and sought not only damages, but also an injunction compelling Twitter to turn over the identities behind numerous accounts he said harassed and defamed him. The lawsuit is separate from

Nunes' work on the House Intelligence Committee, where he is now the ranking member.

"Twitter is a machine," Nunes' personal attorney, Steven S. Biss, told Fox News. "It is a modern-day Tammany Hall. Congressman Nunes intends to hold Twitter fully accountable for its abusive behavior and misconduct."

Although federal law ordinarily exempts services like Twitter from defamation liability, Nunes' suit said the platform has taken such an active role in curating and banning content -- as opposed to merely hosting it -- that it should face liability like any other organization that defames.

"Twitter created and developed the content at issue in this case by transforming false accusations of criminal conduct, imputed wrongdoing, dishonesty and lack of integrity into a publicly available commodity used by unscrupulous political operatives and their donor/clients as a weapon," Nunes' legal team wrote. "Twitter is 'responsible' for the development of offensive content on its platform because it in some way specifically encourages development of what is offensive about the content."

 Twitter CEO Jack Dorsey testifying before the House Energy and Commerce Committee hearing on Twitter's algorithms and content monitoring in September 2018.

Twitter CEO Jack Dorsey testifying before the House Energy and Commerce Committee hearing on Twitter's algorithms and content monitoring in September 2018. (REUTERS/Chris Wattie, File)

Additionally, as the complaint stated, Twitter has a duty to exercise reasonable care to avoid hosting outwardly defamatory content because of its increasingly important role in current affairs.

"Access to Twitter is essential for meaningful participation in modern-day American Democracy," the complaint stated. "A candidate without Twitter is a losing candidate. The ability to use Twitter is a vital part of modern citizenship. A presence on Twitter is essential for an individual to run for office or engage in any level of political organizing in modern America. That is because Twitter is not merely a website: it is the modern town square. Twitter is equivalent to the private owner of a public forum who has fully opened its property to the general public for purposes of permitting the public's free expression and debate. That is, in fact, what Twitter has always claimed to be."

Twitter CEO Jack Dorsey has testified previously before Congress that his platform is a kind of "digital public square," although he has insisted that Twitter, as a private company, retains the right to censor speech.

In large part because of Twitter's actions, Nunes "endured an orchestrated defamation campaign of stunning breadth and scope, one that no human being should ever have to bear and suffer in their whole life" in the past year, according to the complaint.

"Twitter is a machine. It is a modern-day Tammany Hall."

— Devin Nunes' personal attorney, Steven S. Biss

The complaint also named specific Twitter accounts that spread allegedly defamatory material about Nunes. One defendant, identified as "Liz" Mair, purportedly published tweets that "implied that Nunes colluded with prostitutes and cocaine addicts, that Nunes does cocaine, and that Nunes was involved in a 'Russian money laundering front,'" according to Nunes' lawyers.

HOWARD KURTZ: IS TWITTER CORRUPTING JOURNALISM, OR EXPOSING ITS UTTER UNFAIRNESS?

The complaint quoted a June 22, 2018 tweet from Mair that implied Nunes invested in a winery that "allegedly used underage hookers to solicit investment."

Mair did not respond to Fox News' request for comment. Fox News has also reached out to Twitter for comment on the lawsuit but did not receive an immediate reply. (The lawsuit seeks joint and several liability, which permits plaintiffs to recover from one defendant, and then leaves the defendants to sort out what each owes.)

The complaint also named "Devin Nunes' Mom," "a person who, with Twitter's consent, hijacked Nunes' name, falsely impersonated Nunes' mother, and created and maintained an account on Twitter (@DevinNunesMom) for the sole purpose of attacking, defaming, disparaging and demeaning Nunes."

Nunes lawyers' wrote, "In her endless barrage of tweets, Devin Nunes' Mom maliciously attacked every aspect of Nunes' character, honesty, integrity, ethics and fitness to perform his duties as a United States Congressman."


As of Monday afternoon, the @DevinNunesMom account was suspended by Twitter when Fox News tried to access it. The complaint stated that "Twitter only suspended the account in 2019 after Nunes' real mother, Toni Dian Nunes, complained. ... Twitter permitted @DevinNunesMom, for instance, to tweet and retweet with impunity throughout 2018."

However, according to the complaint, "Twitter did nothing to investigate or review the defamation that appeared in plain view on its platform. Twitter consciously allowed the defamation of Nunes to continue" despite reports and purported reviews by Twitter's content moderators.

TWITTER CEO: PLATFORM WAS PROBABLY 'WAY TOO AGGRESSIVE' IN BANNING ACCOUNTS

"As part of its agenda to squelch Nunes' voice, cause him extreme pain and suffering, influence the 2018 Congressional election, and distract, intimidate and interfere with Nunes' investigation into corruption and Russian involvement in the 2016 Presidential Election, Twitter did absolutely nothing," the complaint stated.

Another account named as a defendant was "Devin Nunes' Cow," or @DevinCow, which purportedly called Nunes a "treasonous cowpoke" and an "udder-ly worthless" criminal. The timing and substance of the tweets, according to Nunes' team, suggested that Mair was working jointly with @DevinCow and @DevinNunesMom accounts.

 Calif. GOP Rep. Devin Nunes has sued Twitter for over \$250 million.

Calif. GOP Rep. Devin Nunes has sued Twitter for over \$250 million. (AP, File)

The complaint also charged that Twitter "shadow-banned" Nunes in 2018 "in order to restrict his free speech and to amplify the abusive and hateful content published and republished by Mair, Devin Nunes' Mom," and other accounts.

[CLICK HERE TO GET THE FOX NEWS APP](#)

"The shadow-banning was intentional," the complaint continued. "It was calculated to interfere with and influence the federal election and interfere with Nunes' ongoing investigation as a member of the House Permanent Select Committee on Intelligence. Twitter's actions affected the election results. The combination of the shadow-ban and Twitter's refusal to enforce its Terms and Rules in the face of clear and present abuse and hateful conduct caused Nunes to lose support amongst voters."

The lawsuit cited numerous articles, including a [Vice News story from last summer](#), reporting that Twitter had, for a time, downplayed the visibility of prominent conservatives in its search results.

On Monday, Sean Davis, the managing editor of The Federalist, wrote that he recently had been an apparent victim of a form of shadow-banning on Twitter.

"Twitter gave me no notice or explanation when it shadowbanned one of my Tweets about Russian interference in our elections," Davis wrote. "But what's worse is how Twitter apparently gives its users the fraudulent impression that their tweets, which Twitter secretly bans, are still public."

Davis charged that Twitter "claimed in its e-mail to me that it 'mistakenly remove[d]' a completely anodyne tweet about public congressional testimony, but didn't explain why it left the tweet--and metrics showing no engagement--visible to me when logged in. Is conning users a bug, or a feature?"

Dorsey, the Twitter CEO, [acknowledged on Joe Rogan's podcast earlier this month](#) that the platform has been too aggressive in banning certain accounts.

Vijaya Gadde, Twitter's chief legal officer, said that the company would learn from its mistakes.

"Where we draw a line is when people use their voice and their platform to use their voice to silence someone else on the platform," Gadde said on the podcast. "It's rare for us to outright ban someone without warning."

Fox News' Catherine Herridge contributed to this report.