



Georgia

P.O. Box 77208, Atlanta, GA 30357
678.981.5295 | syoung@acluga.org

December 18, 2017

Congressman Drew Ferguson
1601 E Hwy 34, Suite B
Newnan, GA 30265
Attn: amy.timmerman@mail.house.gov

Via Certified Mail and E-mail

Re: Unconstitutional Censorship on Your Government Facebook Page

Dear Congressman Ferguson:

Our democracy thrives when people can freely criticize elected officials—including yourself—so that the people you answer to can best determine whether you should remain in office. The American Civil Liberties Union of Georgia (ACLU-GA) writes this letter to address your office’s apparent attempt to silence your own constituents in violation of the First Amendment to the United States Constitution.

Your office maintains an official government Facebook page (“Congressman Drew Ferguson”) that is open for public comment. However, Ellen Wright, a Grantville resident and an engaged citizen who has posted comments critical of your work, discovered on or around August 2, 2017 that all her comments were deleted and that she was no longer permitted to post any comments on your page. *See Exhibit A.*¹ After she contacted your office about this, your communications director responded on August 7 claiming that Ms. Wright was never blocked from posting on the page, *see Exhibit B*, thus admitting that none of Ms. Wright’s comments had violated your posting policies, *see Exhibit C*. However, as demonstrated in the attached screenshots, Ms. Wright was still unable to comment on any of Congressman Ferguson’s posts as of August 17 and remains blocked to this day. *See Exhibits D, E.*

Ms. Wright does not appear to be the only constituent who has been unconstitutionally blocked from posting on your public Facebook page. Another constituent, George Cantrell, has also been blocked from posting on your page according to a screenshot he submitted to our office. *See Exhibit F*. And on October 4, in response to your post about passing a budget and tax bill, Gwen Moore posted the following comment:

Mr. Ferguson – there are many people in this district that you haven’t talked to since you refuse to hold an in person town hall. Quite possibly there may be things in your tax reform plan that would be mutually agreed on – maybe not – but unless you respect us

¹ Under this post dated August 3, only “Share” appears under the Congressman’s post and neither “Like” nor “Comment” was available for Ms. Wright.

enough to meet with us and have meaningful discussion, not some phoney town hall, how will you ever know???

See Exhibit G. Nothing in the comment contained “threatening or obscene” language or any other language prohibited by your page’s policies, yet your office has since deleted Ms. Moore’s comment. See Exhibit H.

It is unconstitutional for your office, a governmental entity, to silence the voices of those with whom you disagree. Because your government Facebook page has been opened for any member of the public to post comments, it is considered a “limited public forum” under the law regardless of how your office might choose to characterize it. See *Perry Educ. Ass’n v. Perry Local Educators’ Ass’n*, 460 U.S. 37 (1983). And when a limited public forum has been created, it is unconstitutional for the government to discriminate against certain speakers because of the viewpoints they express. See *Rosenberger v. Rector & Visitors of Univ. of Virginia*, 515 U.S. 819, 829 (1995). Though legal challenges to censorship on government social media sites are a relatively new phenomenon, at least one court has already found that targeted censorship on government Facebook pages open for public comment is unconstitutional. See *Davison v. Loudon County*, 2016 WL 4801617 (E.D. Va. Sept. 14, 2016) and 2017 WL 58294 (E.D. Va. Jan. 4, 2017).

As social media becomes more integral to the political process and public discourse, government officials must not engage in any form of viewpoint censorship in violation of the First Amendment. As the Supreme Court of the United States has recently said, “[i]t is cyberspace—the ‘vast democratic forums of the Internet’ in general, and social media in particular,” that is “the most important place[] . . . for the exchange of views” in the modern era. *Packingham v. North Carolina*, 137 S. Ct. 1730, 1735 (2017).

We ask that you stop blocking constituents from posting comments on your government Facebook page, restore the posting privileges of Ms. Wright, undertake a review of all people whose posting privileges have been censored, and restore all of those who have been unlawfully blocked for commenting. Please notify us within 30 days in writing regarding whether you will agree to do so. We look forward to hearing from your office.

Sincerely,



Sean J. Young
Legal Director
ACLU of Georgia

EXHIBIT A



Congressman Drew Ferguson

Share Save Suggest Edits ...



Congressman Drew Ferguson

6 hrs · 🌐

Why do we need tax reform? All Americans deserve to keep more of their paychecks.

31 REASONS FOR TAX REFORM

AUG 3

AMERICANS AT EVERY INCOME LEVEL DESERVE TO KEEP MORE OF THEIR PAYCHECKS

Every hard-earned dollar Americans can keep from their paychecks and put toward their own American Dream is a dollar that grows our economy. That's why Republicans are proposing to reduce taxes for all Americans at all income levels.

Learn more about how Republicans are working on tax reform that creates jobs, increases paychecks, and delivers a fair and simple tax code. WAYSANDMEANS.HOUSE.GOV/TAXREFORM

Share 1 share

Chronological

View all 17 comments

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Invite your friends to like this Page

8,740 people like this

10,279 people follow this

Newell Carole and 2 other friends like this

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EXHIBIT B



Responding to your message

Inbox x



Timmerman, Amy <Amy.Timmerman@mail.house.gov>

to me ▾

Aug 7 ☆



Good Morning, Ellen:

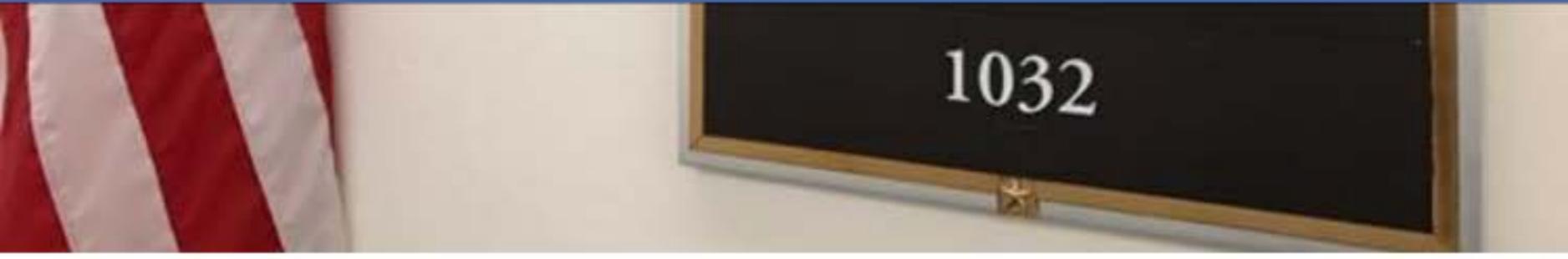
My name is Amy, and I'm the Communications Director for Congressman Ferguson. I understand you have a question regarding our social media monitoring policy. We welcome debate and discussion on this page, and the Congressman feels it is important to hear dissenting opinions from across his district. While there will be differences of opinion, we do ask everyone to refrain from threatening or obscene language. There are filters in place on the page that automatically screen for such language in order to maintain a respectful dialogue. We have this request posted on the page as well, which can be found [here](#). I have confirmed that you currently and have always had full access to the page.

Thank you,
Amy

Amy Timmerman
Communications Director
Congressman Drew Ferguson
ferguson.house.gov



EXHIBIT C



Congressman Drew Ferguson

@RepDrewFerguson

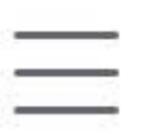


Government Official



Proudly serving the good people of Georgia's 3rd district.

The purpose of this page is for Congressman Drew Ferguson to communicate with the citizens of the Third Congressional District regarding matters of federal policy and for his constituents to provide pertinent feedback regarding those communications. We welcome your comments, however, please note that this



feedback regarding those communications. We welcome your comments, however, please note that this is a moderated online discussion site and not a public forum. Comments posted to this page will be monitored. Comments that (i) are unrelated to the purpose of this page or are not topically related to the specifics of the posting, (ii) contain fighting words, graphic or gratuitous violence, vulgar language, profanity, nudity, obscene or indecent language or sexual content, or false representations of fact, (iii) promote or incite illegal or fraudulent transactions or activities, (iv) threaten, intimidate, harass, or defame any person or organization, (v) constitute "spam," such as content that appears to be from internet bots or repetitive, copy-paste statements, (vi) are commercial in nature, such as advertising, promotion, or endorsement of services or products, or solicitation of funds, (vii) contain personally identifiable information about another individual, (viii) misrepresent the commenter's identity or affiliation, (ix) contain links to any site [that is unrelated



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E

fraudulent transactions or activities, (iv) threaten, intimidate, harass, or defame any person or organization, (v) constitute "spam," such as content that appears to be from internet bots or repetitive, copy-paste statements, (vi) are commercial in nature, such as advertising, promotion, or endorsement of services or products, or solicitation of funds, (vii) contain personally identifiable information about another individual, (viii) misrepresent the commenter's identity or affiliation, (ix) contain links to any site [that is unrelated to the topic of the original post], and/or (x) constitute campaign-related communications, electioneering, or fundraising efforts will be removed and may result in the inability of the author to comment on future posts.



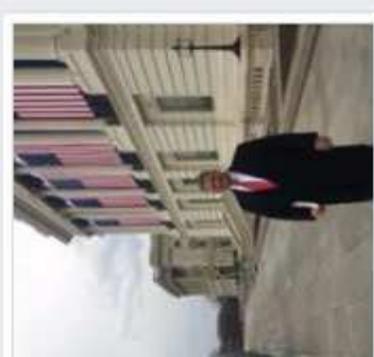
About

Proudly serving the good people of Georgia's 3rd district.

I welcome debate and discussion on this page. While there will be differences of opinion, please refrain from threatening or obscene language.



EXHIBIT D



Congressman Drew Ferguson ✓
 RepDrewFerguson

voters? why not open to the public?

[9](#) · August 16 at 10:37am

View more comments



Congressman Drew Ferguson
 August 15 · 🌐

There must be no ambiguity. White supremacists, Neo-Nazis and the alt-right have no place in our society. As Americans we must always fight against bigotry and hatred in all its forms.

[Share](#)

[497](#)

52 Shares

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J Larrie Smith Took you long enough!
[10](#) · August 15 at 7:24pm

[2](#) Replies



MSM Manipulates Cnn & Fox Are Propaganda Tools I agree but the list should also include members of the far extreme left ... especially those who mask themselves just saying

[10](#) · August 15 at 7:25pm

[5](#) Replies



Tiffany Amlotte You gonna call out the president or ignore what he said!!!

[5](#) · August 15 at 7:25pm

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Community

- Invite your friends to like this Page
- 10,998 people like this
- 13,923 people follow this
- Bob Trammell** and 4 other friends like this

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EXHIBIT E



Congressman Drew Ferguson

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Listen to News Radio 540 WDAK Live for Free! Stream News & Talk songs online from this...

IHEARTRADIO

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👍 1

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Lynne Lasher I hope you stated your support for the continuation of net neutrality and promised that you will not vote to revoke it. Please assure us that \$7k does not buy your vote: <https://www.theverge.com/.../congress-fcc-isp-web...>

🕒 2 · December 1 at 10:02pm · Edited



Edward Spain I want to know why a so called Simplified Tax Code is now 500 pages..... So appears to be a bit Dishonest here....

15 hrs



Congressman Drew Ferguson

November 30 at 4:53pm · 🌐

We should make it easier for cities and counties to redevelop brownfields into businesses or community spaces. That's why I voted for the Brownfields Enhancement, Economic Redevelopment, and Reauthorization Act today to improve the process that helps communities obtain and clean-up brownfield sites.

[Share](#)

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👍 11,886 people like this

👤 15,106 people follow this

👤 **Bob Trammell** and 4 other friends like this



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EXHIBIT F



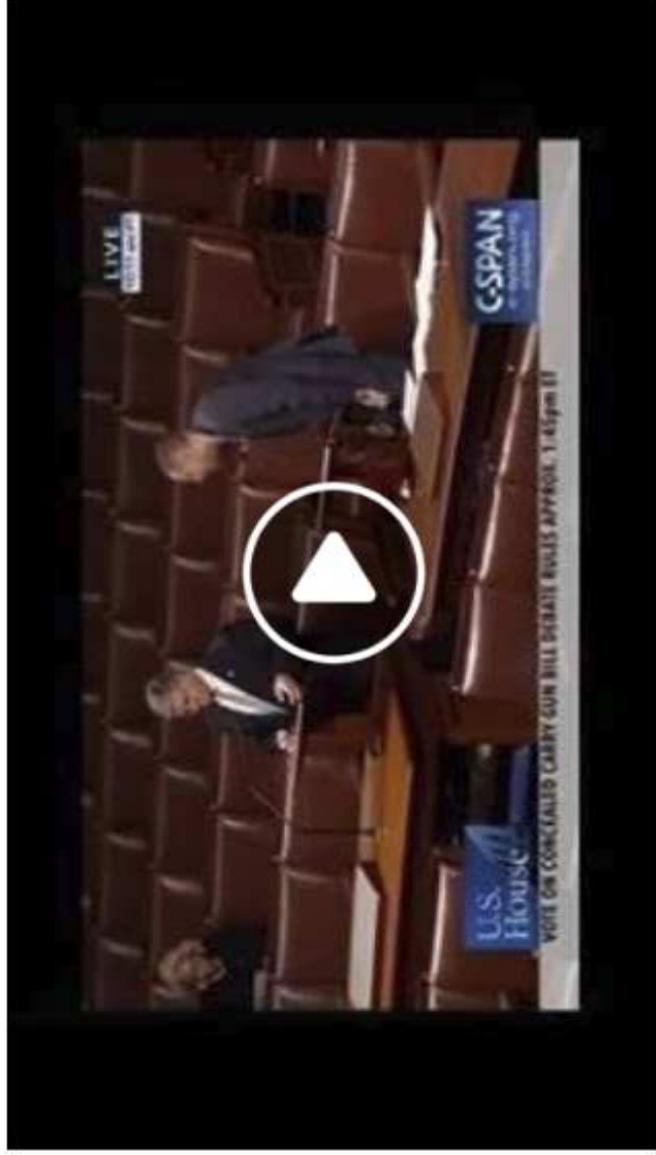
man Drew

rguson

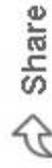
Congressman Drew Ferguson

14 hrs · 🌐

Our constitutionally protected Second Amendment rights should not stop at the state line. That's why I voted for the Concealed Carry Reciprocity Act.



2.2K Views



Share



170

13 Shares

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Congressman Drew Ferguson

20 hrs · 🌐

...

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11,990 people like this



15,215 people follow this



William Charles Kannon Haskin friends like this



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EXHIBIT G



Congressman Drew Ferguson
RepDrewFerguson



No one is saying keep the current tax code: Americans want to keep more of their paychecks

I also know how critical tax reform is to fix our nation's most pressing issue: an ever-growing debt burden we will leave behind for our

THEHILL.COM

Share

55

Chronological

3 Shares



Gwen Moore Mr. Ferguson - there are many people in this district that you haven't talked to since you refuse to hold an in person town hall. Quite possibly there may be things in your tax reform plan that would be mutually agreed on - maybe not - but unless you respect us enough to meet with us and have meaningful discussion, not some phoney town hall, how will you ever know???

3 · October 4 at 12:49pm



Richard Preston The "GOP" budget, not a bipartisan budget...no sense whatsoever.

3 · October 4 at 12:51pm

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13,923 people follow this

Bob Trammell and 4 other friends like this



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Chat (8)

EXHIBIT H



Congressman Drew Ferguson

October 4 · 🌐



Not one person I've talked to in #GA03 has said that we should keep our current tax code as is. I wrote in **The Hill** today about why it is so important for us to pass the **House Budget Committee GOP** budget this week to kick-start tax reform.



No one is saying keep the current tax code: Americans want to keep more of their paychec...
thehill.com

Like

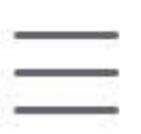
Comment

Share

55

1 share

Write a comment...





Americans want to keep more of their payneec...

thehill.com

Like

Comment

Share

55

1 share



Richard Preston

The "GOP" budget, not a bipartisan budget...no sense whatsoever.

9w Like Reply

3



Mandy Murphy Radeline

Everyone I talk to agrees with me, too, when I only ask certain people!

9w Like Reply

12



Polly Walden

We need to rid ourselves of the IRS all together. If someone does not pay their taxes let the FBI look into it and press charges.

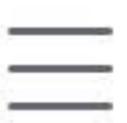
9w Like Reply



Tiffany Amlotte

The GOP tax reform is just to help the rich. Come up with a better plan.

Write a comment...





Congressman Drew Ferguson's Post



The GOP tax reform is just to help the rich. Come up with a better plan.

9w Like Reply



William Michael Brady How does it 'just benefit the rich'?

9w Like Reply



Debra Schontzler Grassi
Most of the tax cuts benefit people in the higher tax brackets - business owners and people that have enough money to pay the estate tax. The average American may get \$1000 or even pay more. Doesn't seem to benefit the middle class like the GOP wants you to believe. Plus it increases the deficit. 🤔

9w Like Reply



Write a reply...



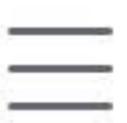
Bj Hilburn-Mcwaters
Get rid of the IRS,. Fire all of them.

9w Like Reply



William Michael Brady There are 79,890 employees at the IRS (last public number - 2015). How would you integrate them to other jobs?

Write a comment...





... public number 2010). How would you integrate them to other jobs?

9w Like Reply



Ashley Bonvillain

William Michael Brady Trump's Administration is pretty empty. People leave their posts almost on a weekly basis now.

9w Like Reply



Write a reply...



Brent Lonkert

FairTax ends the IRS all together !!!!
Everyone pays, including illegals and drug dealers making cash wages

9w Like Reply



Patty Ellis

Then institute the Fair Tax. Perhaps if you actually talked to ALL of your constituents, not just the folks that agree with you, you'd know what's going on in the district and what people really think.

9w Like Reply

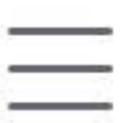


Wayne Parker

Get it done. Eliminate the irs

9w Like Reply

Write a comment...





Congressman Drew Ferguson's Post



Get it done. Eliminate the IRS

9w Like Reply



J Larrie Smith

You obviously have selective hearing and select who you talk to. I am sure you think everyone loves 45.

9w Like Reply



Rebecca Macedonia Anderson

<http://slate.me/2yoHj2T>



The IRS Gave Equifax a \$7.25 Million Contract, and a Congre...

slate.com

9w Like Reply

Julian Mack

The reduction in the number of tax brackets is, in my opinion, an actual tax increase for many. The number of brackets has nothing whatsoever to do with either tax reduction or reforming tax code.

9w Like Reply



Robert Hinkley

The Republican plan is not any better! You all need to do better for the American people not your special interest groups, like the idiot who said the middle class will save a \$1000 they can buy a new car or remodel

Write a comment...

