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Ron DeSantis Wants To Take His 'War On Woke' National. There's One Big Problem: The Constitution.

Courts have repeatedly rejected the Florida governor's narrow-minded agenda as a “positively dystopian” assault on free speech and due process.



By Paul Blumenthal

May 27, 2023, 08:00 AM EDT

Florida Gov. Ron DeSantis launched his bid for the Republican presidential nomination Wednesday by promising to bring the suite of culture war policies he's signed into law in Florida to the whole nation if he's elected in 2024.

“The woke mind virus is basically a form of cultural Marxism,” DeSantis said in an appearance on [Fox News](#) the same day he announced his campaign. “At the end of the day, it's an attack on the truth. And because it's a war on truth, I think we have no choice but to wage a war on woke.”

This “war on woke” serves as the central justification and argument for DeSantis' bid for the

GOP nomination. By [challenging the supposed liberal tilt in American culture](#) as expressed in schools, the media and the corporate workplace culture, this “war,” and the legislation behind it, shows DeSantis as a culture fighter who gets things done.

But there’s one big problem for DeSantis’ war: the U.S. Constitution.

Broad swathes of DeSantis’ anti-woke agenda — from restrictions on the teaching of social science about race in colleges and universities, to bans on corporate diversity training to limits on public protests — have been temporarily suspended by judges who found them very likely to be in violation of the first and 14th amendments.

In suspending these laws, federal judges called them “[positively dystopian](#)” and the defenses presented in court “[wholly at odds with accepted constitutional principles](#).” The suspended provisions of the laws may yet be upheld as they move through appeals courts and, possibly, U.S. Supreme Court review, but, at the moment, DeSantis’ offensive against the “woke mind virus” has been partially reversed.

These multiple losses in court put a constitutional blemish on DeSantis’ claims of success as a culture warrior who can deftly enact the social conservative agenda.



In April 2022, Florida Gov. Ron DeSantis signs HB 7, known as the "Stop WOKE Act," whose acronym stands for Wrongs to our Kids and Employees. DANIEL A. VARELA/MIAMI HERALD VIA GETTY IMAGES

One of the laws partially suspended is the pillar of DeSantis’ war: The Individual Freedom

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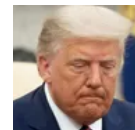
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Act, popularly known as the [Stop WOKE Act](#), prohibits the promotion or advancement of [eight concepts related to race](#) in public schools, colleges and universities and in private-sector corporate trainings. The definitions of the prohibited concepts are based on a Trump administration executive order banning government contractors from engaging employees in certain diversity training programs.

In response, a group of university professors, students and corporations filed three lawsuits challenging the law's prohibitions on teaching race-based concepts or using them in diversity trainings for private-sector employees. The two lawsuits challenging the law's application to colleges and universities were heard as a single case. In each case, U.S. District Judge Mark Walker in northern Florida, who was nominated by President Barack Obama, suspended the law's application with strong language.

"The State of Florida lays the cornerstone of its own Ministry of Truth under the guise of the Individual Freedom Act, declaring which viewpoints shall be orthodox and which shall be verboten in its university classrooms," Walker [wrote in his November 2022 decision](#) on the law's provisions governing colleges and universities.

"Recently, Florida has seemed like a First Amendment upside down," Walker wrote in [suspending the provisions governing private corporations](#). "Normally, the First Amendment bars the state from burdening speech, while private actors may burden speech freely. But in Florida, the First Amendment apparently bars private actors from burdening speech, while the state may burden speech freely."

In both cases, Walker determined that the law improperly allowed the state to discriminate against speech based on viewpoint: Professors or corporate trainers were banned from discussing the race-based concepts if they could be seen to be advancing or promoting them but not if they were criticizing or disparaging them.

"It's pretty black-letter law that if the government is saying you may not offer a training that espouses one viewpoint but you can offer a training that espouses the opposite viewpoint, that that is pretty blatant viewpoint discrimination," said Shalini Agarwal, a lawyer at the nonprofit Protect Democracy who serves as counsel for the private-sector plaintiffs.

Further, the law's language in describing the eight banned concepts is incredibly vague, which Walker ruled likely violates the 14th Amendment's Due Process Clause.

"A law cannot pass constitutional muster if the people that are supposed to be following them do not understand what's prohibited conduct and what's permitted conduct," said Greg Greubel, a lawyer at the Foundation for Individual Rights and Expression representing some of the university professors and students.

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Walker notes this in his decision by pointing to the fact that one banned concept contains a confusing triple negative.



Attendees of the Miami Pride parade protest DeSantis' Parental Rights in Education law, more commonly known as the "Don't Say Gay" law. SEAN DRAKES VIA GETTY IMAGES

The law bans instruction that states “Members of one race, color, national origin, or sex *cannot* and *should not* attempt to treat others *without* respect to race, color, national origin, or sex.” (Emphasis added.)

Such vague and contradictory language results in a “cacophony of confusion” that is “bordering on unintelligible,” Walker writes.

The law’s provisions were also deemed unconstitutionally vague because they allow discussion of the prohibited concepts if they are “given in an objective manner without endorsement.” Since no definition of “objective” is provided, the professors and corporate trainers would be, according to Walker, “at a loss on how to discuss concepts like white privilege, systemic racism, and white supremacy without simultaneously endorsing the notion that such prejudice should be overcome.”

“When teaching history it is very difficult to teach in an objective manner if the state says you cannot promote these things but you can denigrate them,” Greubel said.

Due to Walker's decisions, the Stop WOKE Act's provisions limiting college and university classroom discussions and corporate trainings are on hold. As of March 16, an appeals court panel upheld Walker's injunction on the college and university prohibitions. However, the Stop WOKE Act's prohibitions on teaching the eight race-based concepts in primary and secondary education remain in effect.

These are not the only pieces of DeSantis' anti-woke war that have been blocked.

Walker also blocked an anti-protest law, enacted in response to Black Lives Matter protests, from going into effect, ruling that a provision allowing prosecutors to charge anyone present at a protest where a handful of people commit acts of violence against people or property created a chilling effect on protected First Amendment activity. The U.S. Court of Appeals for the 11th Circuit [upheld the injunction on the law](#) until the Florida Supreme Court rules on the definition of the law's vague terminology.

Both a [U.S. district judge](#) and the [11th Circuit](#) ruled that a law banning large digital media platforms from taking down accounts, removing or appending notes to posts and "shadow-banning" users is unconstitutional. DeSantis had described the law as necessary to prevent digital corporations from discriminating "in favor of the dominant Silicon Valley ideology." The challenge is now before the U.S. Supreme Court after the U.S. Court of Appeals for the 5th Circuit upheld a similar law in Texas.

DeSantis' dismissal of former Hillsborough County prosecutor Andrew Warren was [deemed a violation of Warren's First Amendment rights](#) by the courts. DeSantis claimed that Warren, a reform-minded prosecutor, was improperly refusing to prosecute certain crimes when he removed him from office. A U.S. district judge ruled that DeSantis' allegations were "false" and there was "not a hint of misconduct" in Warren's actions. Warren is [now petitioning](#) in federal court to be reinstated.





Students and others attend a walkout on April 21 outside Orlando City Hall to protest Florida education policies. ANADOLU AGENCY VIA GETTY IMAGES

The only major lawsuit that has gone DeSantis' way has been a challenge to the Parental Rights in Education law, also known as the "Don't Say Gay" law, that bans certain discussions of gender and sexuality in primary and secondary schools. That lawsuit failed after the parents and students who sued were denied standing by U.S. District Judge Allen Winsor, a Donald Trump nominee. The plaintiffs have since [filed an appeal](#).

And, of course, there's Disney's recent lawsuit alleging that DeSantis' efforts to strip the company of governance of the Florida special district where Disney World resides amounted to illegal retaliation violating the company's First Amendment rights. While such retaliation cases are often hard to prove, Disney's lawsuit [contains copious evidence](#) from public statements and DeSantis' own book highlighting how his actions were driven by a desire to punish the company for speaking out against the "Don't Say Gay" law. DeSantis [responded to Disney's lawsuit](#) by calling it "political" and without "merit," and he [asked the court to disqualify the judge](#) assigned to the case, Mark Walker, due to his previous decisions that went against the governor. That lawsuit is pending.

More lawsuits are expected to come after the latest legislative session expanded the Stop WOKE Act and the "Don't Say Gay" law and banned gender transition health care for minors.

Though the federal courts have increasingly tilted toward conservatives since the Trump administration, protecting the First Amendment's free speech rights remains an area where the judicial wings of both parties can find agreement. The conservatives on the Supreme Court have been especially [protective of the free speech rights of corporations](#), a key target of DeSantis' war.



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Still, this broad effort to limit First Amendment rights by imposing restrictions on what may be discussed in colleges, universities and the private sector raises concerns among those who work to protect those rights, especially as DeSantis looks to take this war national in his presidential campaign.

“It seems really un-American, a lot of the targeting of protester speech rights, the targeting of private employer speech rights, the targeting of speech rights on college campuses,” Agarwal said. “A lot of it is not what Americans recognize as within the bounds of the law.”

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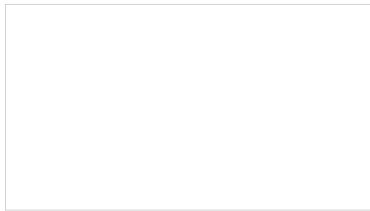
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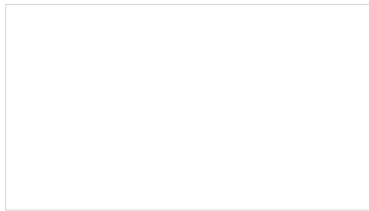
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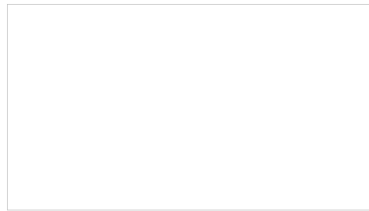
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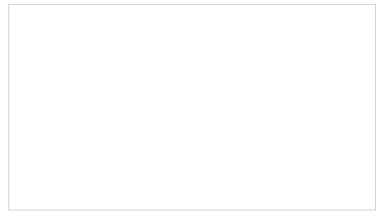
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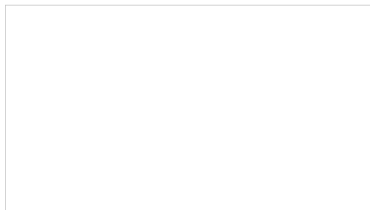


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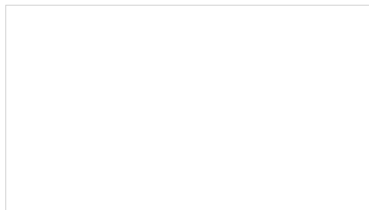


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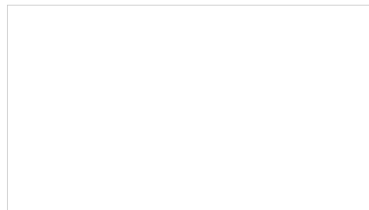
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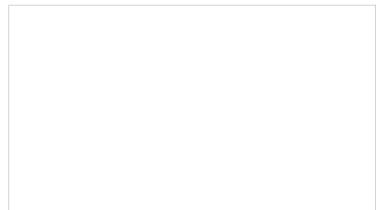
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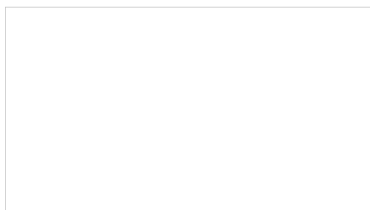
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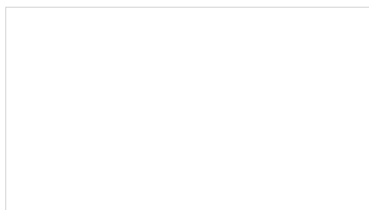
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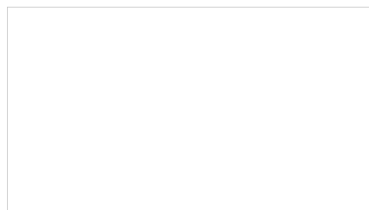
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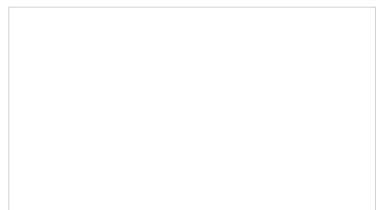
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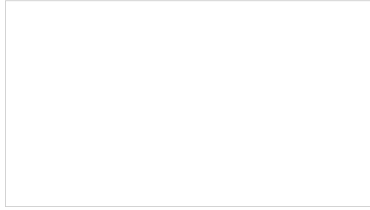
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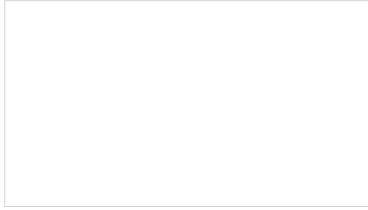
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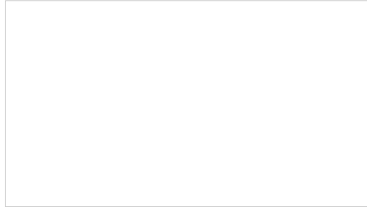
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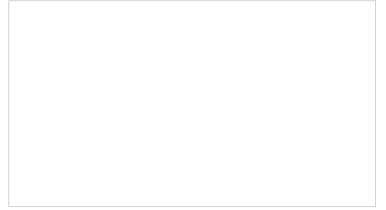
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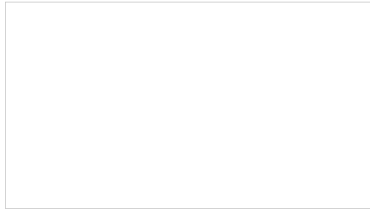
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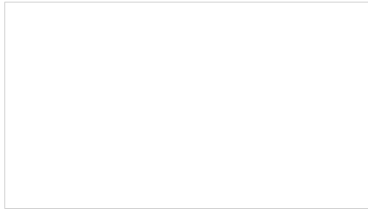
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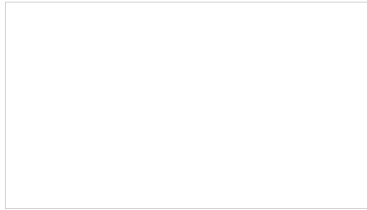
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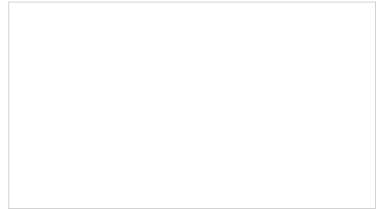
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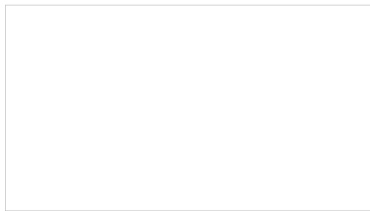
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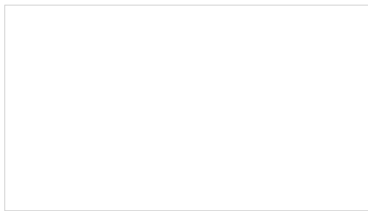
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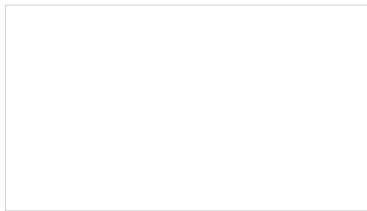
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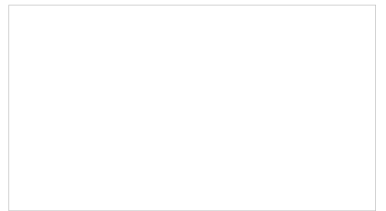
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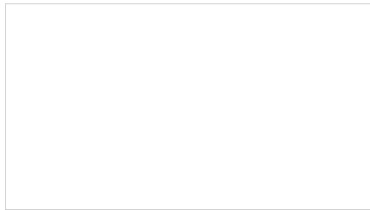
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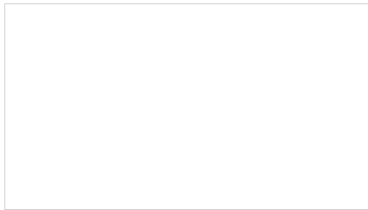
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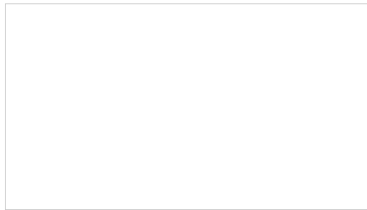
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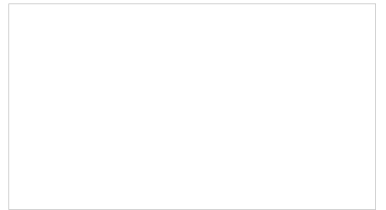
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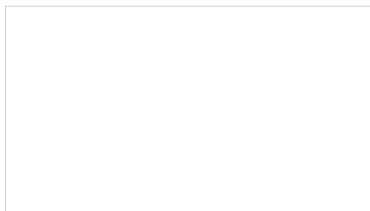
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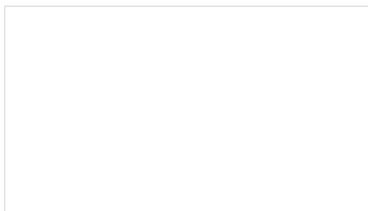
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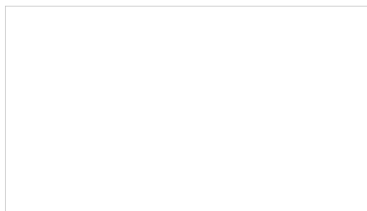
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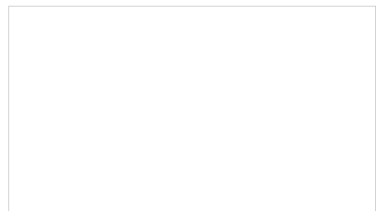
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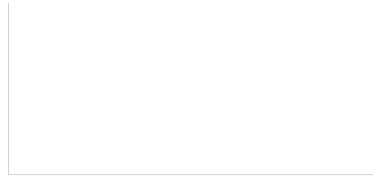
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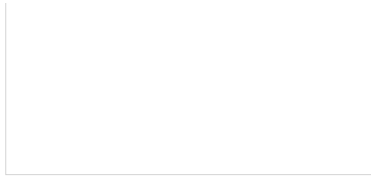
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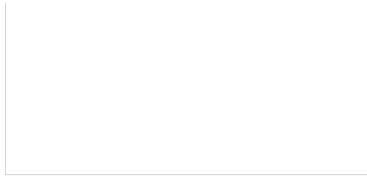
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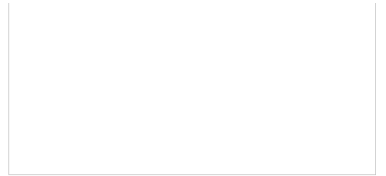
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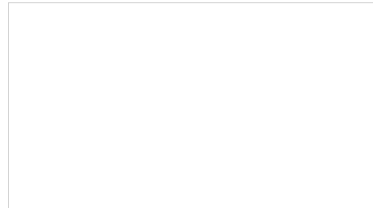
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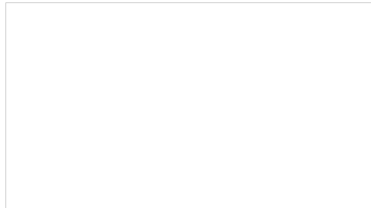
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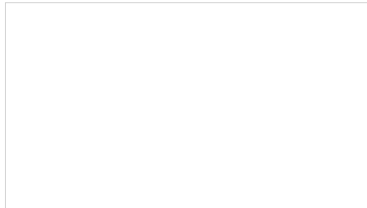
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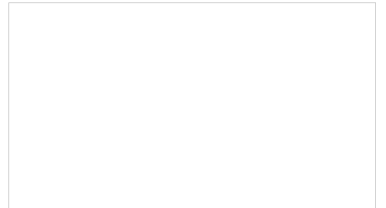
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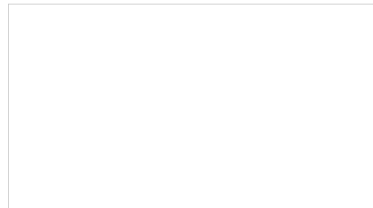
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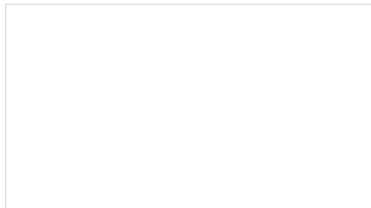
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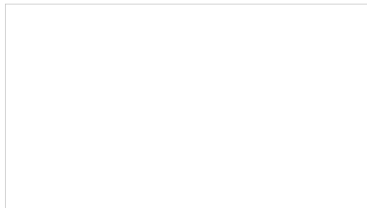
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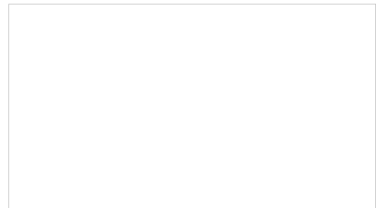
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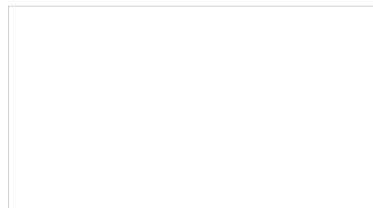
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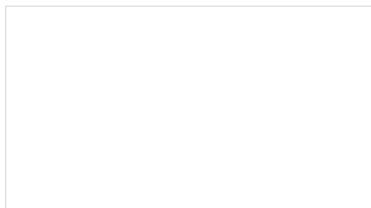
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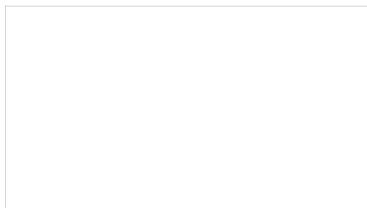
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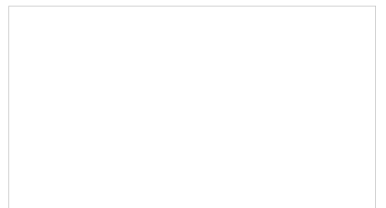
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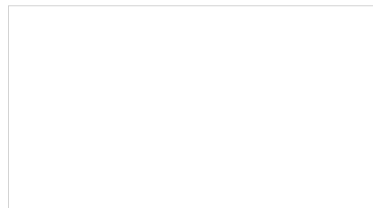
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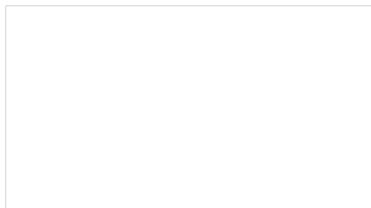
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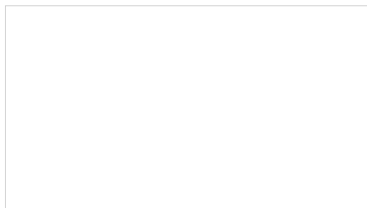
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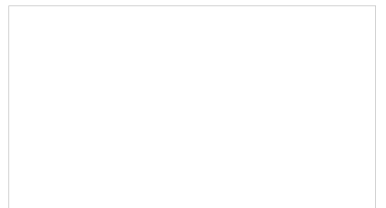
Lawrence O'Donnell Spots New 'Extremely Damning Evidence' Against Trump



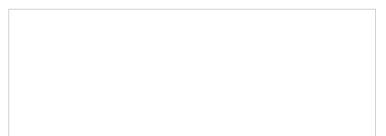
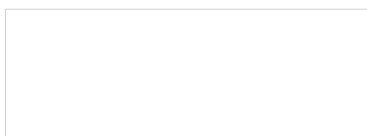
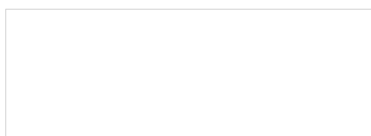
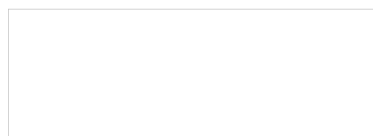
Jamaal Bowman Calls Republicans 'Economic Terrorists' Amid Debt Ceiling Talks



Donald Trump Jr. Accidentally Insults His Dad In Botched Attempt To Dis DeSantis



DeSantis Interview Gets Glitchy For Second Straight Day On Campaign Trail





Mar-A-Lago Workers Moved Boxes Of Papers Before An FBI Visit: Reports



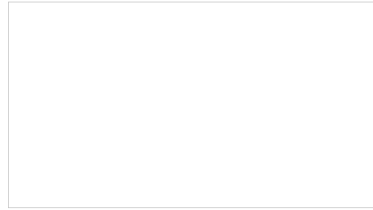
Biden Could Give Back Some Of Signature IRS Boost For Debt Limit Deal: Report



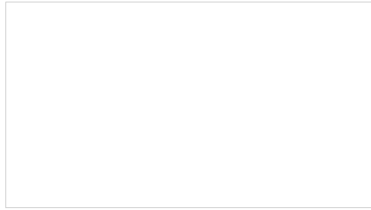
Texas Attorney General Ken Paxton Furious After House Panel Recommends Impeachment



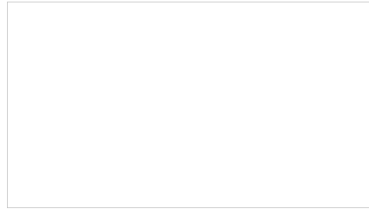
Republican Congressman Complains Biden Has A Bias Against White Male Judges



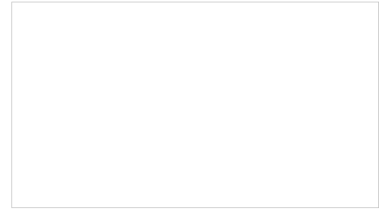
Doug Mastriano, Election Denier Advised By Christian 'Prophets,' Announces He's Not Running For Senate



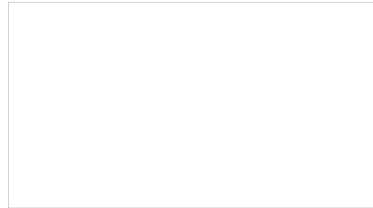
Lauren Boebert Suggests Effort To Fight Antisemitism Is An Attack On Conservatives



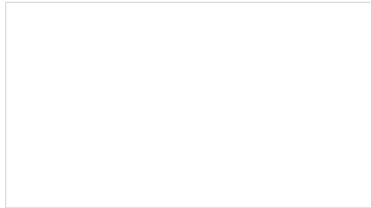
Biden Vetoes GOP-Led Effort To Block Police Reform Law



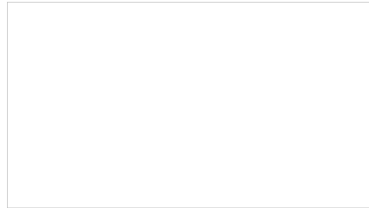
Former President Barack Obama Shows His Support For The Writers Strike



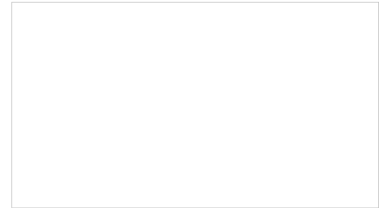
House Bill Introduced To Fight State Bans On Who Can Own Land



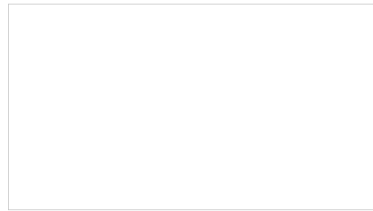
CNN Announces Mike Pence Town Hall And Gets Brutally Mocked



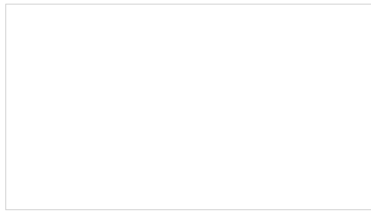
Rep. Ryan Zinke Confuses Two Agencies He Once Led



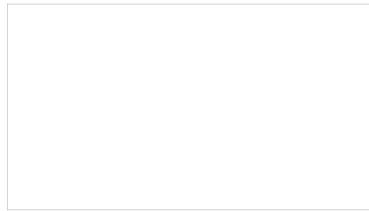
Republicans Preparing Major Tax Cut Bill For After Debt Ceiling Crisis



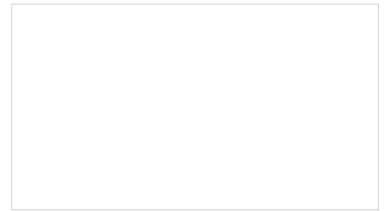
DeSantis Won't Rule Out Pardoning Trump, Jan. 6 Rioters



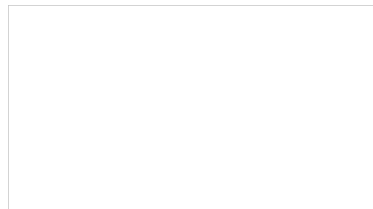
GOP Lawmakers Embrace Child Labor With Proposals In Several States



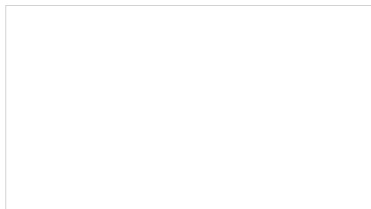
Two-Thirds Of Californians Think Feinstein Isn't Fit To Serve, Poll Finds



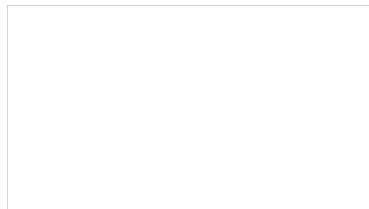
Next Year's Spending Needs To Be Lower — And The Same — Than This Year's To Get A Debt Limit Deal



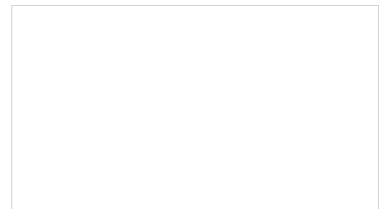
Steve Bannon Gets May 2024 Court Date For His Role In Border Wall Fundraiser



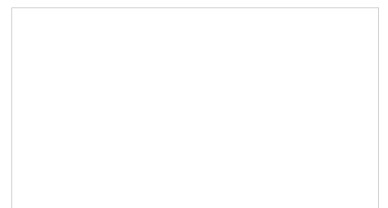
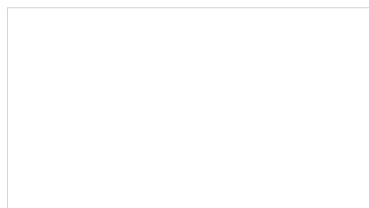
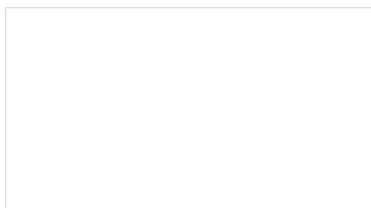
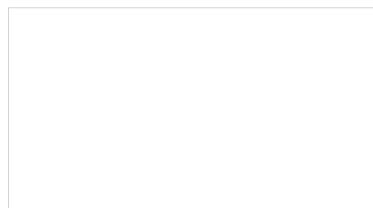
Conservatives Furious As Lawmakers Close In On Debt Limit Deal



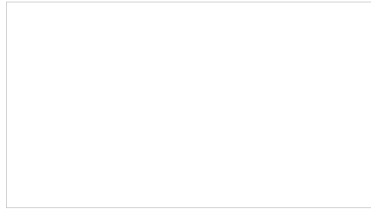
South Carolina Governor Signs New Abortion Ban Into Law



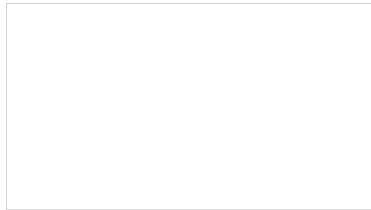
Fox News Host Tweets Ron DeSantis' Campaign Donation Page, Stoking MAGA Rage



Newt Gingrich's Unintentional Burn Of Donald Trump Is Priceless

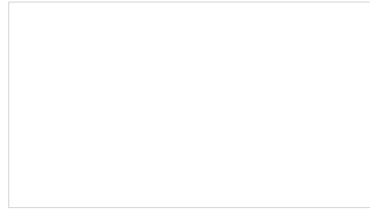


Ex-DOJ Official Predicts When Trump's 'Worst Nightmare' Will Happen

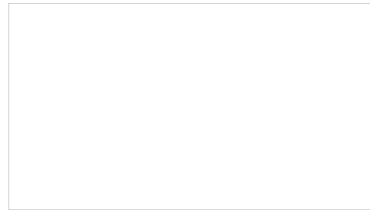


House Democrats Dunk On Marjorie Taylor Greene After Her Hilariously Ironic Request

Gavin Newsom Uses Marjorie Taylor Greene's Theories Against Her In Wicked Burn

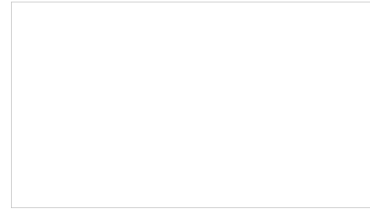


Ex-GOP Lawmaker From Florida Trashes DeSantis Over 'Absolutely Humiliating' Day

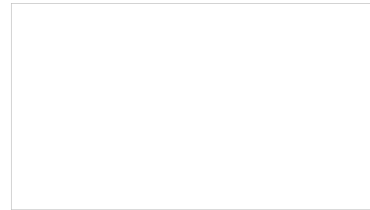


Target Slammed For Removing Pride Merch Following Conservative Outrage

Fox News Clearly Enjoyed Ron DeSantis' Glitchy Campaign Launch On Twitter

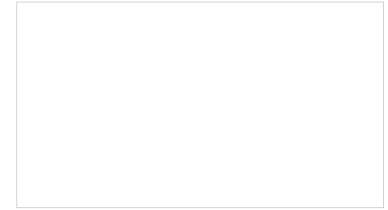


Trump Goes Scorched Earth On DeSantis With Freaky Hitler/Satan Post

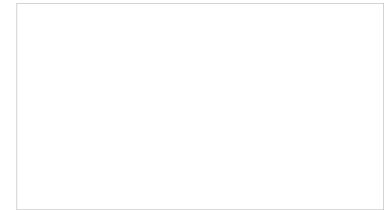


Biden Mocks DeSantis' Glitchy Presidential Announcement In Just 3 Words

Whoopi Goldberg Delivers Scathing Reality Check For Right-Wing 'Snowflakes'



DeSantis' Campaign To Be President Of Twitter Had A Rough Start



Jan. 6 Rioter Who Put Foot On Desk In Pelosi's Office Sentenced To 54 Months In Prison

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