

**“Editorial Functions” Standard Decisions:
Third, Sixth, Eighth and Tenth Circuits**

Third Circuit

Pace v. Baker-White, 2020 WL 134316 at *3 (E.D. Pa. Jan. 13, 2020) (“§ 230 . . . bars ‘lawsuits seeking to hold a service provider liable for its exercise of a publisher’s traditional editorial functions’”) (quoting *Zeran*, 129 F.3d at 330))

Papataros v. Amazon.com, Inc., 2019 WL 4011502 at *9 (D.N.J. Aug. 26, 2019) (quoting holding in *Oberdorf v. Amazon.co, Inc.*, 930 F.3d 136, 153 (3d Cir. 2019), that defendant action was protected by section 230 because it “falls within the publisher’s editorial function”)

Oberdorf v. Amazon.com, Inc., 930 F.3d 136, 153 (section 230 “bar lawsuits seeking to hold a service provider liable for its exercise of a publisher’s traditional editorial functions”) (quoting *Green v. America Online*, 318 F.3d 465, 471 (3d Cir. 2003)), 152 (dispositive question is whether defendant’ action was “part of the editorial function”), 153 (certain actions not protected by section 230 because they went “beyond a mere editorial function”; other action were protected because they “fall[] within the publisher’s editorial function”) (3d Cir. 2019))

Shulman v. Facebook.com, 2018 WL 33444236 at *7 (D.N.J. July 9, 2018) (“[s]ection 230 . . . ’bars lawsuits seeking to hold a service provider liable for its exercise of a publisher’s traditional editorial functions’”) (quoting *Green v. America Online*, 318 F.3d 465, 471 (3d Cir. 2003))

Marfione v. KAI U.S.A., Ltd., 2018 WL 1519042 at *6 (W.D. Pa. March 28, 2018) (“section 230 . . . ‘bars lawsuits seeking to hold a service provider liable for its exercise of a publisher’s traditional editorial functions’”) (quoting *Green v. America Online*, 318 F.3d 465, 471 (3d Cir. 2003))

Parker v. Paypal, Inc., 2017 WL 3508759 at *7 (E.D. Pa. Aug. 16, 2017) (“[s]ection 230 . . . ‘bars lawsuits seeking to hold a service provider liable for its exercise of a publisher’s traditional editorial functions’”) (quoting *Green v. America Online*, 318 F.3d 465, 471 (3d Cir. 2003))

Despot v. Baltimore Life Ins. Co., 2016 WL 4148085 at *14 (W.D. Pa. June 28, 2016) (“§ 230 . . . ‘bars lawsuits seeking to hold a service provider liable for its exercise of a publisher’s traditional editorial functions’”) (quoting *Green v. America Online*, 318 F.3d 465, 471 (3d Cir. 2003))

Obado v. Magedson, 612 Fed. Appx. 90, 93 (3d Cir. 2015) (“§ 230 ‘bars lawsuits seeking to hold a service provider liable for its exercise of a publisher’s traditional editorial functions’”) (quoting *Green v. America Online*, 318 F.3d 465, 471 (3d Cir. 2003))

Saponaro v. Grindr, LLC, 93 F. Supp. 319, 323 (D. N.J. 2015) (“th[e] statutory language ‘ . . . bars lawsuits seeking to hold a service provider liable for its exercise of a publisher’s traditional editorial functions’”) (quoting *Green v. America Online*, 318 F.3d 465, 471 (3d Cir. 2003))

Obado v. Magedson, 2014 WL 3778261 at *3 (“§ 230 . . . ‘bars lawsuits seeking to hold a service provider liable for its exercise of a publisher’s traditional editorial

functions’”) (quoting *Zeran*, 129 F.3d at 330), *5 (activities protected by section 230 because they were “editorial functions”), *8 (certain activity protected because it was “nothing more than an ‘exercise of a publisher’s traditional editorial functions’”) (quoting *Green*, 318 F.3d at 471) (D.N.J. July 31, 2014))

Kabbaj v. Google, Inc., 2014 WL 1369864 at *2 (“[s]ection 230 . . . ‘ . . . bars lawsuits seeking to hold a service provider liable for its exercise of a publisher’s traditional editorial functions’”) (quoting *Green v. America Online*, 318 F.3d 465, 471 (3d Cir. 2003)), *4 (“[d]efendants are immune . . . for . . . acts identified as traditional editorial functions”) (D. Del. April 7, 2014))

Mmubango v. Google, Inc., 2013 WL 664231 at *2 (“this section ‘ . . . bars lawsuits seeking to hold a service provider liable for its exercise of a publisher’s traditional editorial functions’”) (quoting *Green v. America Online*, 318 F.3d 465, 471 (3d Cir. 2003)), *3 (conduct by defendant protected because it was “a traditional editorial function”) (E.D. Pa. Feb. 22, 2013))

DiMeo v. Max, 284 Fed. Appx. 280, 282 (3d Cir. 2007) (“§ 230 ‘ . . . bars lawsuits seeking to hold a service provider liable for its exercise of a publisher’s traditional editorial functions’”) (quoting *Green v. America Online*, 318 F.3d 465, 471 (3d Cir. 2003))

Langdon v. Google, Inc., 474 F. Supp. 2d 622, 630 (D. Del. 2007) (“[t]he provision ‘ . . . bars lawsuits seeking to hold a service provider liable for its exercise of a publisher’s traditional editorial functions’”) (quoting *Green v. America Online*, 318 F.3d 465, 471 (3d Cir. 2003))

DiMeo v. Max, 433 F. Supp. 2d 523, 428 (E.D. Pa. 2006) (“[t]he provision ‘ . . . bars lawsuits seeking to hold a

service provider liable for its exercise of a publisher's traditional editorial functions'") (quoting *Green v. America Online*, 318 F.3d 465, 471 (3d Cir. 2003))

Dwyer by and through Dwyer v. Oceanport School Dist., 2005 WL 8176151 at *4 (D.N.J. March 31, 2005) ("§ 230 ' . . . bars lawsuits seeking to hold a service provider liable for its exercise of a publisher's traditional editorial functions'") (quoting *Green v. America Online*, 318 F.3d 465, 471 (3d Cir. 2003))

Green v. America Online (AOL), 318 F.3d 465, 471 (3d Cir. 2003) ("§ 230 . . . ' . . . bars lawsuits seeking to hold a service provider liable for its exercise of a publisher's traditional editorial functions'") (quoting *Zeran v. America Online, Inc.*, 129 F.3d 327, 330 (4th Cir. 1997))

Sixth Circuit

O'Kroley v. Fastcase, Inc., 831 F.3d 352, 355 (6th Cir. 2016) (defendant's actions protected by section 230 because they came "within 'a publisher's traditional editorial functions'") (quoting *Jones v. Dirty World Entertainment Recordings, LLC*, 755 F.3d 398, 416 (6th Cir. 2014))

Ross v. Elightbars LLC, 2016 WL 3460254 at *1 (N.D. Ohio June 24, 2016) (section 230 "bars 'lawsuits seeking to hold a service provider liable for its exercise of a publisher's traditional editorial functions'") (quoting *Dimeo v. Max*, 433 F. Supp. 2d 523, 528 (E.D. Pa. 2006))

Nail v. Schrauben, 2016 WL 8737183 at *3 (W.D. Mich. Jan. 22, 2016) (section 230 "bars lawsuits seeking to hold a service provider liable for its exercise of a publisher's traditional editorial functions") (quoting *Jones*, 755 F.3d at 407)

O’Kroley v. Fastcase, Inc., 2014 WL 2881526 at *1 (M.D. Tenn. June 25, 2014) (“The Act expressly bars lawsuits seeking to hold a service provider liable for its exercise of a publisher’s traditional editorial functions”)

Jones v. Dirty World Entertainment Recordings LLC, 755 F.3d 398, 407 (6th Cir. 2014) (“At its core, § 230 bars ‘lawsuits seeking to hold a service provider liable for its exercise of a publisher’s traditional editorial functions’”) (quoting *Zeran*, 129 F.3d at 330)

O’Kroley v. Fastcase Inc., 2014 WL 2197029 at *2 (M.D. Tenn. May 27, 2014) (section 230 “bars ‘lawsuits seeking to hold a service provider liable for its exercise of a publisher’s traditional editorial functions’”) (quoting *Zeran*, 129 F.3d at 330)

Jones v. Dirty World Entertainment Recordings, LLC, 965 F. Supp. 2d 818, 821 n. 3 (E.D. Ky. 2013) (“Dirty World’s involvement goes beyond mere editorial functions”)

Merritt v. LexisNexis Screening Solutions, Inc., 2013 WL 3242952 at *3 (E.D. Mich. June 26, 2013) (section 230 “bars ‘lawsuits seeking to hold a service provider liable for its exercise of a publisher’s traditional editorial functions’”) (quoting *Zeran*, 129 F.3d at 330)

Eckert v. Microsoft Corp., 2007 WL 496692 at *3 (E.D. Mich. Feb. 13, 2007) (“lawsuits seeking to hold a service provider liable for its exercise of a publisher’s traditional editorial functions . . . are barred”) (quoting *Zeran*, 129 F.3d at 330)

Eighth Circuit

Backpage.com, LLC v. Hawley, 2017 WL 5726868 at *10 (E.D. Mo. Nov. 28, 2017) (“lawsuits seeking to hold a service provider liable for its exercise of a publisher’s traditional editorial functions . . . are barred”) (quoting *Jane Doe No. 1. v. Backpage, LLC*, 817 F.3d 12, 18 (1st Cir. 2016))

S.C. v. Dirty World, LLC, 2012 WL 3335284 at *4 (W.D. Mo. March 12, 2012) (“The CDA protects the ‘exercise of a publisher’s traditional editorial functions’”) (quoting *Zeran*, 129 F.3d at 330)

Johnson v. Arden, 614 F.3d 785, 792 (8th Cir. 2010) (“lawsuits seeking to hold a service provider liable for its exercise of a publisher’s traditional editorial functions . . . are barred”) (quoting *Zeran*, 129 F.3d at 330)

Johnson v. Arden, 2009 WL 10672018 (W.D. Mo. June 8, 2009) (“lawsuits seeking to hold a service provider liable for its exercise of a publisher’s traditional editorial functions . . . are barred”) (quoting *Zeran*, 129 F.3d at 330)

Tenth Circuit

Silver v. Quora, Inc., 2016 WL 9777159 at *4 (D. N. ex. June 13, 2016) (“the CDA protects against liability for the ‘exercise of a publisher’s traditional editorial functions’”) (quoting *Zeran*, 129 F.3d at 330)

General Steel Domestic Sales, LLC v. Chumley, 2015 WL 4911585 at *6 (D. Colo. Aug. 18, 2015) (section 230 “bars lawsuits seeking to hold a service provider liable for its exercise of a publisher’s traditional editorial

functions”; minor editing sometimes protected) (quoting *Zeran*, 129 F.3d at 330)

Shrader v. Biddinger, 2012 WL 976032 at *8 (D. Colo. Feb. 17, 2012) (“lawsuits seeking to hold a service provider liable for its exercise of a publisher’s traditional editorial functions . . . are barred”) (quoting *Zeran*, 129 F.3d at 330)

Ben Ezra, Weinstein, and Company, Inc. v. America Online Inc., 206 F.3d 980, 986 (10th Cir. 2000) (“[b]y deleting [certain] information, Defendant was simply engaging in the editorial functions Congress sought to protect”)
