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**APPENDIX A -  
AFFIRMATION OF OCTOBER 4, 2022**

**United States Court of Appeals  
For the First Circuit**

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No. 21-1921

JOACHIM MARTILLO,  
Plaintiff - Appellant,

v.

TWITTER, INC.; FACEBOOK, INC.; A MEDIUM  
CORPORATION; LINKEDIN CORPORATION;  
THE STANFORD DAILY PUBLISHING  
CORPORATION; HARVARD CRIMSON, INC.,

Defendants - Appellees.

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Before

Kayatta, Howard and Gelpí,  
Circuit Judges.

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**JUDGMENT**

Entered: October 4, 2022 .

The sua sponte dismissal of this action under 28 U.S.C. § 1915(e)(2) is summarily affirmed, essentially for the reasons discussed by the district court in its Order of October 15, 2021. See 1st Cir. R. 27.0(c).

Affirmed.

By the Court:

Maria R. Hamilton, Clerk

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cc:

Joachim C. Martillo

Kenneth N. Thayer

Sarah P. Kelly

Anuj K. Khetarpal

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**APPENDIX B - ORDERS**

*District Court Order of October 15, 2021*

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS  
CIVIL ACTION NO. 21-11119-RGS

JOACHIM MARTILLO

v.

TWITTER INC., *et al.*

ORDER

October 15, 2021

STEARNS, D.J.

*Pro se* litigant Joachim Martillo brings this action in which he alleges that he has wrongfully been prohibited from making statements on certain social media platforms. Martillo has filed a motion for leave to proceed *in forma pauperis*. For the reasons set forth below, the court will grant the motion and dismiss this action.

I. Motion for Leave to Proceed *in Forma Pauperis*

Upon review of Martillo's motion for leave to proceed *in forma pauperis*, the court concludes that he has adequately shown that he is unable to prepay the filing fee. Accordingly, the motion is GRANTED.

## II. Review of the Complaint

Because Martillo is proceeding *in forma pauperis*, his pleading is subject to screening under 28 U.S.C. § 1915(e)(2). This statute authorizes federal courts to dismiss actions in which a plaintiff seeks to proceed without prepayment of fees if the action is malicious, frivolous, fails to state a claim upon which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief. *See* 28 U.S.C. § 1915(e)(2). In conducting this review, the court liberally construes Martillo's pleading because he is proceeding *pro se*. *See Haines v. Kerner*, 404 U.S. 519, 520-21 (1972).

Martillo brings this action against six private companies that operate social media platforms. Martillo, who self-identifies as a Diaspora Jew, claims that these companies discriminate against "Palestinians, Arabs, Muslims, and Diaspora Jews that reject Zionism." Compl. ¶ 36. Martillo represents that each defendant disabled or suspended his account on their respective platforms because he posted content that each defendant deemed to be anti-Zionist. These alleged events occurred in 2019 and 2020.

Martillo asserts a claim under Title II of the Civil Rights Act of 1964, 42 U.S.C. § 2000a. This statute provides, in relevant part, that "[a]ll persons [are] . . . entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination or

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segregation on the ground of race, color, religion, or national origin.” 42 U.S.C. § 2000a(a). The following establishments are considered “a place of public accommodation” if it serves the public: inns, hotels, motels, any “other establishment which provides lodging to transient guests,” restaurants, cafeterias lunchroom, lunch counters, soda fountains, any “other facility” selling food for consumptions on the “the premises, theaters, concert halls, sports arenas, stadiums, any “other place of exhibition or entertainment.” 42 U.S.C. § 2000a(b)(1)-(3).<sup>1</sup> In addition, any establishment that is “physically located within the premises” of the above-enumerated establishments is covered by the statute. 42 U.S.C. § 2000a(b)(4).

Martillo has failed to state a claim under 42 U.S.C. § 2000a because the defendants’ social media platforms are not places of “public accommodation.” The statutory definition of a “public accommodation” cannot be interpreted to include a virtual meeting place. The definition enumerates only actual physical establishments and structures (*e.g.*, hotels, restaurants, movie theaters, stadiums) and establishments “physically located” within the aforesaid. Read in tandem with the enumerated “places of public accommodation,” the statute’s reference to any “other place of exhibition or entertainment,” does not include a virtual meeting place. *See, e.g., Lewis v. Google LLC*, 851 App’x 723, 724 (9th Cir. 2021) (holding that YouTube

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<sup>1</sup> In addition, the operations of the establishment must “affect commerce” or the discrimination must be “supported by State action.” 42 U.S.C. § 2000a(b).



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websites are not a “place of public accommodation” within the meaning of 42 U.S.C. § 2000a); *Noah v. AOL Time Warner, Inc.*, 261 F. Supp. 2d 532, 541-42 (E.D. Va.) (holding that internet chat room was not a “public accommodation” within the meaning of 42 U.S.C. § 2000a(b) because places of “‘public accommodation’ are limited to actual physical places and structures, and thus cannot include chat rooms, which are not actual physical facilities but instead are virtual forms for communication”) *see also Jane Doe No. 1 v. Backpage.com, LLC*, 817 F.3d 12, 23 (1st Cir. 2016) (reiterating “the uncontroversial premise that, where feasible, ‘a statute should be construed in a way that conforms to the plain meaning of its text’”) (quoting *In re Jarvis*, 53 F.3d 416, 419 (1st Cir. 1995))).<sup>2</sup>

Martillo also claims that the defendants violated a Massachusetts common carrier law which provides that “[e]very common carrier of merchandise or other property” “shall not discriminate against any particular person or subject him to any undue or unreasonable prejudice or disadvantage.” M.G.L. ch. 159, § 1. The defendants are not common carriers of “merchandise or other property” for purposes of this 1869 law. *See Am. Tel. & Tel. Co. v. IMR Cap. Corp.*, 888 F. Supp. 221 (D.

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<sup>2</sup> Martillo’s reliance on cases concerning the definition of a “public accommodation” in the context of the Americans with Disabilities Act is misplaced. *See Lewis v. Google LLC*, 461 F. Supp. 3d 938, 957 (N.D. Cal. 2020) (stating that “the ADA has a more expansive definition of ‘place of public accommodation’ than the Civil Rights Act”) (internal quotation marks and citation omitted).

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Mass. 1995) (noting year of enactment of M.G.L. ch. 159, § 1).

Further, even if Martillo had stated a claim under 42 U.S.C. § 2000a or the state common carrier law, the defendants would be immune from such claims under the Communications Decency Act (“CDA”), 47 U.S.C. § 230. The CDA provides in relevant part: “No provider or user of an interactive computer service shall be held liable on account of . . . any action taken to enable or make available to information content providers or others the technical means to restrict access to material” “that the provider or user considers to be lewd, lascivious, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected.” 47 U.S.C. § 230(c)(2). This provision “‘precludes courts from entertaining claims that would place a computer service provider in a publisher’s role,’ and therefore bars ‘lawsuits seeking to hold a service provider liable for its exercise of a publisher’s traditional editorial functions – such as deciding whether to publish, withdraw, postpone, or alter content.’” *Green v. America Online (AOL)*, 318 F.3d 465, 471 (3d Cir. 2003) (quoting *Zeran v. America Online, Inc.*, 129 F.3d 327, 330 (4th Cir.1997)). The defendants’ alleged blocking of content posted by Martillo and disabling of his account are editorial decisions protected by the CDA. *See, e.g., Sikhs for Justice, Inc. v. Facebook*, 697 Fed. App’x 526, 526 (9th Cir. 2017) (holding that, under the CDA, Facebook was immune from claim that it had wrongly blocked the plaintiff’s online content); *Langdon v. Google, Inc.*, 474 F. Supp. 2d, 622, 631 (D.

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Del. 2007) (holding that the CDA “provides Google, Yahoo, and Microsoft immunity for their editorial decisions regarding screening and deletion [of the plaintiff’s advertisements] from their network”) (footnote omitted).

**ORDER**

In accordance with the foregoing, the motion for leave to proceed *in forma pauperis* is GRANTED and this action is DISMISSED for failure to state a claim upon which relief may be granted.

**SO ORDERED.**

/s/ Richard G. Stearns

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UNITED STATES  
DISTRICT JUDGE

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***District Court Final Order of October 15, 2021***

UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 21-11119-RGS

JOACHIM MARTILLO

v.

TWITTER INC., *et al.*

**FINAL ORDER OF DISMISSAL**

In accordance with the Order dated October 15, 2021, dismissing this action for the reasons stated therein, it is hereby ORDERED that the above-captioned matter is dismissed in its entirety.

Date: 10/15/2021

/s/ Richard G. Stearns

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UNITED STATES  
DISTRICT JUDGE

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**APPENDIX C -  
DC DENIAL OF NOVEMBER 10, 2021**

**United States District Court  
District of Massachusetts**

**Notice of Electronic Filing**

The following transaction was entered on 11/10/2021  
at 9:46 AM EST and filed on 11/10/2021

**Case Name:** Martillo v. Twitter Inc. et al

**Case Number:** 1:21-cv-11119-RGS

**Filer:**

**WARNING: CASE CLOSED on 10/15/2021**

**Document Number:** 12(No document attached)

**Docket Text:**

Judge Richard G. Stearns: ELECTRONIC ORDER entered denying [7] Motion for Reconsideration filed by Joachim Martillo. Mr. Martillo has not identified any basis which would cause the court to alter its order dismissing this action.

(mkz)

1:21-cv-11119-RGS Notice has been electronically mailed to:

1:21-cv-11119-RGS Notice will not be electronically mailed to:

Joachim Martillo  
75 Bailey Street #1L  
Dorchester, MA 02124

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**APPENDIX D -  
CONSTITUTIONAL PROVISIONS  
AND STATUTES**

***U.S. Constitution Article I Section 1***

All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

***U.S. Constitution Article VI ¶ 2***

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any state to the Contrary notwithstanding.

***U.S. Constitution Amendment I***

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

***U.S. Constitution Amendment II***

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

***U.S. Constitution Amendment IX***

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

***U.S. Constitution Amendment X***

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

***U.S. Constitution Amendment XIV***

**Section 1.**

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

**Section 2.**

Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state.

**Section 3.**

No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.



**Section 4.**

The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

**Section 5.**

The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

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***17 U.S. Code § 102—Subject matter of copyright:  
In general***

(a) Copyright protection subsists, in accordance with this title, in original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. Works of authorship include the following categories:

- (1) literary works;
- (2) musical works, including any accompanying words;
- (3) dramatic works, including any accompanying music;
- (4) pantomimes and choreographic works;
- (5) pictorial, graphic, and sculptural works;
- (6) motion pictures and other audiovisual works;
- (7) sound recordings; and
- (8) architectural works.

(b) In no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.

**28 U.S. Code § 1915—Proceedings in forma pauperis**

(a)

(1)

Subject to subsection (b), any court of the United States may authorize the commencement, prosecution or defense of any suit, action or proceeding, civil or criminal, or appeal therein, without prepayment of fees or security therefor, by a person who submits an affidavit that includes a statement of all assets such prisoner possesses that the person is unable to pay such fees or give security therefor. Such affidavit shall state the nature of the action, defense or appeal and affiant's belief that the person is entitled to redress.

(2)

A prisoner seeking to bring a civil action or appeal a judgment in a civil action or proceeding without prepayment of fees or security therefor, in addition to filing the affidavit filed under paragraph (1), shall submit a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint or notice of appeal, obtained from the appropriate official of each prison at which the prisoner is or was confined.

**(3)**

An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.

**(b)**

**(1)** Notwithstanding subsection (a), if a prisoner brings a civil action or files an appeal in forma pauperis, the prisoner shall be required to pay the full amount of a filing fee. The court shall assess and, when funds exist, collect, as a partial payment of any court fees required by law, an initial partial filing fee of 20 percent of the greater of—

**(A)**

the average monthly deposits to the prisoner's account; or

**(B)**

the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint or notice of appeal.

**(2)**

After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. The agency having custody of the prisoner shall forward payments from the prisoner's account to the clerk of the court each time the amount in the account exceeds \$10 until the filing fees are paid.

(3)

In no event shall the filing fee collected exceed the amount of fees permitted by statute for the commencement of a civil action or an appeal of a civil action or criminal judgment.

(4)

In no event shall a prisoner be prohibited from bringing a civil action or appealing a civil or criminal judgment for the reason that the prisoner has no assets and no means by which to pay the initial partial filing fee.

(c) Upon the filing of an affidavit in accordance with subsections (a) and (b) and the prepayment of any partial filing fee as may be required under subsection (b), the court may direct payment by the United States of the expenses of (1) printing the record on appeal in any civil or criminal case, if such printing is required by the appellate court; (2) preparing a transcript of proceedings before a United States magistrate judge in any civil or criminal case, if such transcript is required by the district court, in the case of proceedings conducted under section 636(b) of this title or under section 3401(b) of title 18, United States Code; and (3) printing the record on appeal if such printing is required by the appellate court, in the case of proceedings conducted pursuant to section 636(c) of this title. Such expenses shall be paid when authorized by the Director of the Administrative Office of the United States Courts.

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(d) The officers of the court shall issue and serve all process, and perform all duties in such cases. Witnesses shall attend as in other cases, and the same remedies shall be available as are provided for by law in other cases.

(e)

(1) The court may request an attorney to represent any person unable to afford counsel.

(2) Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that—

(A) the allegation of poverty is untrue; or

(B) the action or appeal—

(i) is frivolous or malicious;

(ii) fails to state a claim on which relief may be granted; or

(iii) seeks monetary relief against a defendant who is immune from such relief.

(f)

(1) Judgment may be rendered for costs at the conclusion of the suit or action as in other proceedings, but the United States shall not be liable for any of the costs thus incurred. If the United States has paid the cost of a stenographic transcript or printed record for the prevailing party, the same shall be taxed in favor of the United States.

**(2)**

**(A)** If the judgment against a prisoner includes the payment of costs under this subsection, the prisoner shall be required to pay the full amount of the costs ordered.

**(B)** The prisoner shall be required to make payments for costs under this subsection in the same manner as is provided for filing fees under subsection (a)(2).

**(C)** In no event shall the costs collected exceed the amount of the costs ordered by the court.

**(g)** In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

**(h)** As used in this section, the term "prisoner" means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.

**42 U.S. Code § 1981—Equal rights under the law)**

**(a) STATEMENT OF EQUAL RIGHTS**

All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

**(b) “MAKE AND ENFORCE CONTRACTS” DEFINED**

For purposes of this section, the term “make and enforce contracts” includes the making, performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.

**(c) PROTECTION AGAINST IMPAIRMENT**

The rights protected by this section are protected against impairment by nongovernmental discrimination and impairment under color of State law.

**42 U.S. Code § 1982—Property rights of citizens**

All citizens of the United States shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property.



***42 U.S. Code § 2000a—Prohibition against discrimination or segregation in places of public accommodation***

**(a) EQUAL ACCESS**

All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination or segregation on the ground of race, color, religion, or national origin.

**(b) ESTABLISHMENTS AFFECTING INTERSTATE COMMERCE OR SUPPORTED IN THEIR ACTIVITIES BY STATE ACTION AS PLACES OF PUBLIC ACCOMMODATION; LODGINGS; FACILITIES PRINCIPALLY ENGAGED IN SELLING FOOD FOR CONSUMPTION ON THE PREMISES; GASOLINE STATIONS; PLACES OF EXHIBITION OR ENTERTAINMENT; OTHER COVERED ESTABLISHMENTS**

Each of the following establishments which serves the public is a place of public accommodation within the meaning of this subchapter if its operations affect commerce, or if discrimination or segregation by it is supported by State action:

- (1) any inn, hotel, motel, or other establishment which provides lodging to transient guests, other than an establishment located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor of such establishment as his residence;

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(2) any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises, including, but not limited to, any such facility located on the premises of any retail establishment; or any gasoline station;

(3) any motion picture house, theater, concert hall, sports arena, stadium or other place of exhibition or entertainment; and

(4) any establishment (A)(i) which is physically located within the premises of any establishment otherwise covered by this subsection, or (ii) within the premises of which is physically located any such covered establishment, and (B) which holds itself out as serving patrons of such covered establishment.

**(c) OPERATIONS AFFECTING COMMERCE; CRITERIA;  
"COMMERCE" DEFINED**

The operations of an establishment affect commerce within the meaning of this subchapter if (1) it is one of the establishments described in paragraph (1) of subsection (b); (2) in the case of an establishment described in paragraph (2) of subsection (b), it serves or offers to serve interstate travelers of a substantial portion of the food which it serves, or gasoline or other products which it sells, has moved in commerce; (3) in the case of an establishment described in paragraph (3) of subsection (b), it customarily presents films, performances, athletic teams, exhibitions, or other sources of entertainment which move in commerce; and (4) in the case of an establishment described in paragraph

(4) of subsection (b), it is physically located within the premises of, or there is physically located within its premises, an establishment the operations of which affect commerce within the meaning of this subsection. For purposes of this section, "commerce" means travel, trade, traffic, commerce, transportation, or communication among the several States, or between the District of Columbia and any State, or between any foreign country or any territory or possession and any State or the District of Columbia, or between points in the same State but through any other State or the District of Columbia or a foreign country.

**(d) SUPPORT BY STATE ACTION**

Discrimination or segregation by an establishment is supported by State action within the meaning of this subchapter if such discrimination or segregation (1) is carried on under color of any law, statute, ordinance, or regulation; or (2) is carried on under color of any custom or usage required or enforced by officials of the State or political subdivision thereof; or (3) is required by action of the State or political subdivision thereof.

**(e) PRIVATE ESTABLISHMENTS**

The provisions of this subchapter shall not apply to a private club or other establishment not in fact open to the public, except to the extent that the facilities of such establishment are made available to the customers or patrons of an establishment within the scope of subsection (b).

***47 U.S. Code § 223—Obscene or harassing telephone calls in the District of Columbia or in interstate or foreign communications***

**(a) PROHIBITED ACTS GENERALLY**

Whoever—

**(1) in interstate or foreign communications—**

**(A) by means of a telecommunications device knowingly—**

**(i) makes, creates, or solicits, and**

**(ii) initiates the transmission of,**

any comment, request, suggestion, proposal, image, or other communication which is obscene or child pornography, with intent to abuse, threaten, or harass another person;

**(B) by means of a telecommunications device knowingly—**

**(i) makes, creates, or solicits, and**

**(ii) initiates the transmission of,**

any comment, request, suggestion, proposal, image, or other communication which is obscene or child pornography, knowing that the recipient of the communication is under 18 years of age, regardless of whether the maker of such communication placed the call or initiated the communication;

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(C) makes a telephone call or utilizes a telecommunications device, whether or not conversation or communication ensues, without disclosing his identity and with intent to abuse, threaten, or harass any specific person;

(D) makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number; or

(E) makes repeated telephone calls or repeatedly initiates communication with a telecommunications device, during which conversation or communication ensues, solely to harass any specific person; or

(2) knowingly permits any telecommunications facility under his control to be used for any activity prohibited by paragraph (1) with the intent that it be used for such activity,

shall be fined under title 18 or imprisoned not more than two years, or both.

**(b) PROHIBITED ACTS FOR COMMERCIAL PURPOSES;  
DEFENSE TO PROSECUTION**

(1) Whoever knowingly—

(A) within the United States, by means of telephone, makes (directly or by recording device) any obscene communication for commercial purposes to any person, regardless of whether the maker of such communication placed the call; or

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**(B)** permits any telephone facility under such person's control to be used for an activity prohibited by subparagraph (A),

shall be fined in accordance with title 18 or imprisoned not more than two years, or both.

**(2)** Whoever knowingly—

**(A)** within the United States, by means of telephone, makes (directly or by recording device) any indecent communication for commercial purposes which is available to any person under 18 years of age or to any other person without that person's consent, regardless of whether the maker of such communication placed the call; or

**(B)** permits any telephone facility under such person's control to be used for an activity prohibited by subparagraph (A), shall be fined not more than \$50,000 or imprisoned not more than six months, or both.

**(3)** It is a defense to prosecution under paragraph (2) of this subsection that the defendant restricted access to the prohibited communication to persons 18 years of age or older in accordance with subsection (c) of this section and with such procedures as the Commission may prescribe by regulation.

**(4)** In addition to the penalties under paragraph (1), whoever, within the United States, intentionally violates paragraph (1) or (2) shall be subject to a fine of not more than \$50,000 for each

violation. For purposes of this paragraph, each day of violation shall constitute a separate violation.

**(5)**

**(A)** In addition to the penalties under paragraphs (1), (2), and (5), whoever, within the United States, violates paragraph (1) or (2) shall be subject to a civil fine of not more than \$50,000 for each violation. For purposes of this paragraph, each day of violation shall constitute a separate violation.

**(B)** A fine under this paragraph may be assessed either—

**(i)** by a court, pursuant to civil action by the Commission or any attorney employed by the Commission who is designated by the Commission for such purposes, or

**(ii)** by the Commission after appropriate administrative proceedings.

**(6)** The Attorney General may bring a suit in the appropriate district court of the United States to enjoin any act or practice which violates paragraph (1) or (2). An injunction may be granted in accordance with the Federal Rules of Civil Procedure.

**(c) RESTRICTION ON ACCESS TO SUBSCRIBERS BY COMMON CARRIERS; JUDICIAL REMEDIES RESPECTING RESTRICTIONS**

**(1)** A common carrier within the District of Columbia or within any State, or in interstate or foreign commerce, shall not, to the extent technically feasible, provide access to a communication specified in subsection (b) from the telephone of any

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subscriber who has not previously requested in writing the carrier to provide access to such communication if the carrier collects from subscribers an identifiable charge for such communication that the carrier remits, in whole or in part, to the provider of such communication.

(2) Except as provided in paragraph (3), no cause of action may be brought in any court or administrative agency against any common carrier, or any of its affiliates, including their officers, directors, employees, agents, or authorized representatives on account of—

(A) any action which the carrier demonstrates was taken in good faith to restrict access pursuant to paragraph (1) of this subsection; or

(B) any access permitted—

(i) in good faith reliance upon the lack of any representation by a provider of communications that communications provided by that provider are communications specified in subsection (b), or

(ii) because a specific representation by the provider did not allow the carrier, acting in good faith, a sufficient period to restrict access to communications described in subsection (b).

(3) Notwithstanding paragraph (2) of this subsection, a provider of communications services to which subscribers are denied access pursuant to paragraph (1) of this subsection may bring an action for a declaratory judgment or similar action in a court. Any such action shall be limited to the



question of whether the communications which the provider seeks to provide fall within the category of communications to which the carrier will provide access only to subscribers who have previously requested such access.

**(d) SENDING OR DISPLAYING OFFENSIVE MATERIAL TO PERSONS UNDER 18**

Whoever—

**(1)** in interstate or foreign communications knowingly—

**(A)** uses an interactive computer service to send to a specific person or persons under 18 years of age, or

**(B)** uses any interactive computer service to display in a manner available to a person under 18 years of age,

any comment, request, suggestion, proposal, image, or other communication that is obscene or child pornography, regardless of whether the user of such service placed the call or initiated the communication; or

**(2)** knowingly permits any telecommunications facility under such person's control to be used for an activity prohibited by paragraph (1) with the intent that it be used for such activity,

shall be fined under title 18 or imprisoned not more than two years, or both.

**(e) DEFENSES**

In addition to any other defenses available by law:

**(1)** No person shall be held to have violated subsection (a) or (d) solely for providing access or connection to or from a facility, system, or network not under that person's control, including transmission, downloading, intermediate storage, access software, or other related capabilities that are incidental to providing such access or connection that does not include the creation of the content of the communication.

**(2)** The defenses provided by paragraph (1) of this subsection shall not be applicable to a person who is a conspirator with an entity actively involved in the creation or knowing distribution of communications that violate this section, or who knowingly advertises the availability of such communications.

**(3)** The defenses provided in paragraph (1) of this subsection shall not be applicable to a person who provides access or connection to a facility, system, or network engaged in the violation of this section that is owned or controlled by such person.

**(4)** No employer shall be held liable under this section for the actions of an employee or agent unless the employee's or agent's conduct is within the scope of his or her employment or agency and the employer (A) having knowledge of such conduct, authorizes or ratifies such conduct, or (B) recklessly disregards such conduct.

**(5)** It is a defense to a prosecution under subsection (a)(1)(B) or (d), or under subsection (a)(2) with

respect to the use of a facility for an activity under subsection (a)(1)(B) that a person—

(A) has taken, in good faith, reasonable, effective, and appropriate actions under the circumstances to restrict or prevent access by minors to a communication specified in such subsections, which may involve any appropriate measures to restrict minors from such communications, including any method which is feasible under available technology; or

(B) has restricted access to such communication by requiring use of a verified credit card, debit account, adult access code, or adult personal identification number.

(6) The Commission may describe measures which are reasonable, effective, and appropriate to restrict access to prohibited communications under subsection (d). Nothing in this section authorizes the Commission to enforce, or is intended to provide the Commission with the authority to approve, sanction, or permit, the use of such measures. The Commission shall have no enforcement authority over the failure to utilize such measures. The Commission shall not endorse specific products relating to such measures. The use of such measures shall be admitted as evidence of good faith efforts for purposes of paragraph (5) in any action arising under subsection (d). Nothing in this section shall be construed to treat interactive computer services as common carriers or telecommunications carriers.

**(f) VIOLATIONS OF LAW REQUIRED; COMMERCIAL ENTITIES, NONPROFIT LIBRARIES, OR INSTITUTIONS OF HIGHER EDUCATION**

(1) No cause of action may be brought in any court or administrative agency against any person on account of any activity that is not in violation of any law punishable by criminal or civil penalty, and that the person has taken in good faith to implement a defense authorized under this section or otherwise to restrict or prevent the transmission of, or access to, a communication specified in this section.

(2) No State or local government may impose any liability for commercial activities or actions by commercial entities, nonprofit libraries, or institutions of higher education in connection with an activity or action described in subsection (a)(2) or (d) that is inconsistent with the treatment of those activities or actions under this section: Provided, however, That nothing herein shall preclude any State or local government from enacting and enforcing complementary oversight, liability, and regulatory systems, procedures, and requirements, so long as such systems, procedures, and requirements govern only intrastate services and do not result in the imposition of inconsistent rights, duties or obligations on the provision of interstate services. Nothing in this subsection shall preclude any State or local government from governing conduct not covered by this section.

**(g) APPLICATION AND ENFORCEMENT OF OTHER FEDERAL LAW**

Nothing in subsection (a), (d), (e), or (f) or in the defenses to prosecution under subsection (a) or (d) shall be construed to affect or limit the application or enforcement of any other Federal law.

**(h) DEFINITIONS**

For purposes of this section—

**(1)** The use of the term “telecommunications device” in this section—

**(A)** shall not impose new obligations on broadcasting station licensees and cable operators covered by obscenity and indecency provisions elsewhere in this chapter;

**(B)** does not include an interactive computer service; and

**(C)** in the case of subparagraph (C) of subsection (a)(1), includes any device or software that can be used to originate telecommunications or other types of communications that are transmitted, in whole or in part, by the Internet (as such term is defined in section 1104 [1] of the Internet Tax Freedom Act (47 U.S.C. 151 note)).

**(2)** The term “interactive computer service” has the meaning provided in section 230(f)(2) of this title.

**(3)** The term “access software” means software (including client or server software) or enabling

tools that do not create or provide the content of the communication but that allow a user to do any one or more of the following:

- (A) filter, screen, allow, or disallow content;
- (B) pick, choose, analyze, or digest content;  
or
- (C) transmit, receive, display, forward, cache, search, subset, organize, reorganize, or translate content.

(4) The term “institution of higher education” has the meaning provided in section 1001 of title 20.

(5) The term “library” means a library eligible for participation in State-based plans for funds under title III of the Library Services and Construction Act (20 U.S.C. 355e et seq.).

***47 U.S. Code § 230—Protection for private blocking and screening of offensive material***

**(a) Findings**

The Congress finds the following:

(1) The rapidly developing array of Internet and other interactive computer services available to individual Americans represent an extraordinary advance in the availability of educational and informational resources to our citizens.

(2) These services offer users a great degree of control over the information that they receive,

as well as the potential for even greater control in the future as technology develops.

(3) The Internet and other interactive computer services offer a forum for a true diversity of political discourse, unique opportunities for cultural development, and myriad avenues for intellectual activity.

(4) The Internet and other interactive computer services have flourished, to the benefit of all Americans, with a minimum of government regulation.

(5) Increasingly Americans are relying on interactive media for a variety of political, educational, cultural, and entertainment services.

(b) **Policy**

It is the policy of the United States—

(1) to promote the continued development of the Internet and other interactive computer services and other interactive media;

(2) to preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation;

(3) to encourage the development of technologies which maximize user control over what information is received by individuals, families, and schools who use the Internet and other interactive computer services;

(4) to remove disincentives for the development and utilization of blocking and filtering

technologies that empower parents to restrict their children's access to objectionable or inappropriate online material; and

(5) to ensure vigorous enforcement of Federal criminal laws to deter and punish trafficking in obscenity, stalking, and harassment by means of computer.

**(c) Protection for "Good Samaritan" blocking and screening of offensive material**

**(1) Treatment of publisher or speaker**

No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.

**(2) Civil liability**

No provider or user of an interactive computer service shall be held liable on account of—

(A) any action voluntarily taken in good faith to restrict access to or availability of material that the provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected; or

(B) any action taken to enable or make available to information content providers or others the technical means to restrict access to material described in paragraph (1).



**(d) Obligations of interactive computer service**

A provider of interactive computer service shall, at the time of entering an agreement with a customer for the provision of interactive computer service and in a manner deemed appropriate by the provider, notify such customer that parental control protections (such as computer hardware, software, or filtering services) are commercially available that may assist the customer in limiting access to material that is harmful to minors. Such notice shall identify, or provide the customer with access to information identifying, current providers of such protections.

**(e) Effect on other laws**

**(1) No effect on criminal law**

Nothing in this section shall be construed to impair the enforcement of section 223 or 231 of this title, chapter 71 (relating to obscenity) or 110 (relating to sexual exploitation of children) of title 18, or any other Federal criminal statute.

**(2) No effect on intellectual property law**

Nothing in this section shall be construed to limit or expand any law pertaining to intellectual property.

**(3) State law**

Nothing in this section shall be construed to prevent any State from enforcing any State law that is consistent with this section. No cause of action may be brought and no liability may be

imposed under any State or local law that is inconsistent with this section.

**(4) No effect on communications privacy law**

Nothing in this section shall be construed to limit the application of the Electronic Communications Privacy Act of 1986 or any of the amendments made by such Act, or any similar State law.

**(5) No effect on sex trafficking law**

Nothing in this section (other than subsection (c)(2)(A)) shall be construed to impair or limit—

(A) any claim in a civil action brought under section 1595 of title 18, if the conduct underlying the claim constitutes a violation of section 1591 of that title;

(B) any charge in a criminal prosecution brought under State law if the conduct underlying the charge would constitute a violation of section 1591 of title 18; or

(C) any charge in a criminal prosecution brought under State law if the conduct underlying the charge would constitute a violation of section 2421A of title 18, and promotion or facilitation of prostitution is illegal in the jurisdiction where the defendant's promotion or facilitation of prostitution was targeted.

(f) **Definitions**

As used in this section:

(1) **Internet**

The term "Internet" means the international computer network of both Federal and non-Federal interoperable packet switched data networks.

(2) **Interactive computer service**

The term "interactive computer service" means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.

(3) **Information content provider**

The term "information content provider" means any person or entity that is responsible, in whole or in part, for the creation or development of information provided through the Internet or any other interactive computer service.

(4) **Access software provider**

The term "access software provider" means a provider of software (including client or server software), or enabling tools that do any one or more of the following:

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(A) filter, screen, allow, or disallow content;

(B) pick, choose, analyze, or digest content; or

(C) transmit, receive, display, forward, cache, search, subset, organize, reorganize, or translate content.

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***M.G.L. Chapter 159 § 1 Duties; jurisdiction to enforce***

Chapter 159, Section 1. Every common carrier of merchandise or other property shall receive, transport and forward all property offered for such purposes by other such carriers as promptly, faithfully and impartially, at as low rates of charge, and in a manner and on terms and conditions as favorable to the carrier offering such property, as he on the same day and at the same place receives, forwards and transports, in the ordinary course of business, property of a like description offered by persons other than such carriers. Such carrier shall not discriminate against any particular person or subject him to any undue or unreasonable prejudice or disadvantage. The supreme judicial or superior court shall have jurisdiction in equity to enforce this section.

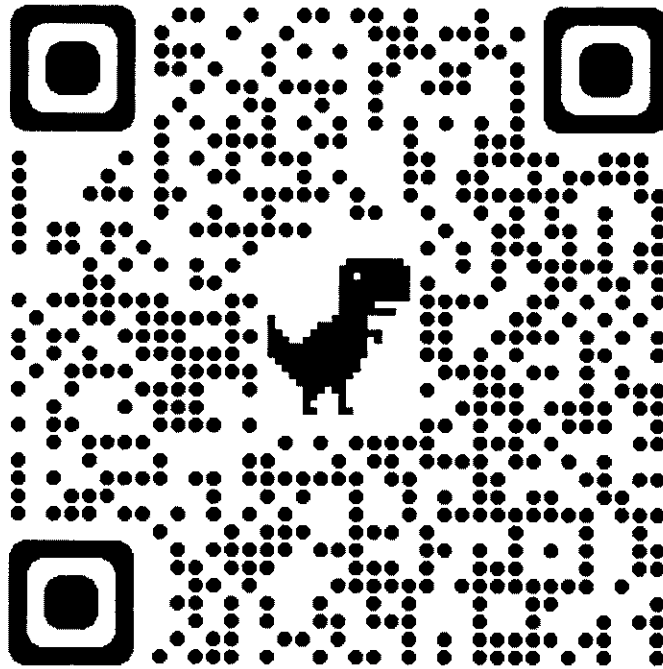
***M.G.L. Chapter 159 § 2 Penalty***

Chapter 159, Section 2. Every such carrier who wilfully neglects or refuses to comply with the preceding section shall forfeit not less than fifty nor more than five hundred dollars, to the person offering the property for transportation.

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**APPENDIX E – QR CODES**

*Original Complaint [1:21-cv-11119-RGS]*

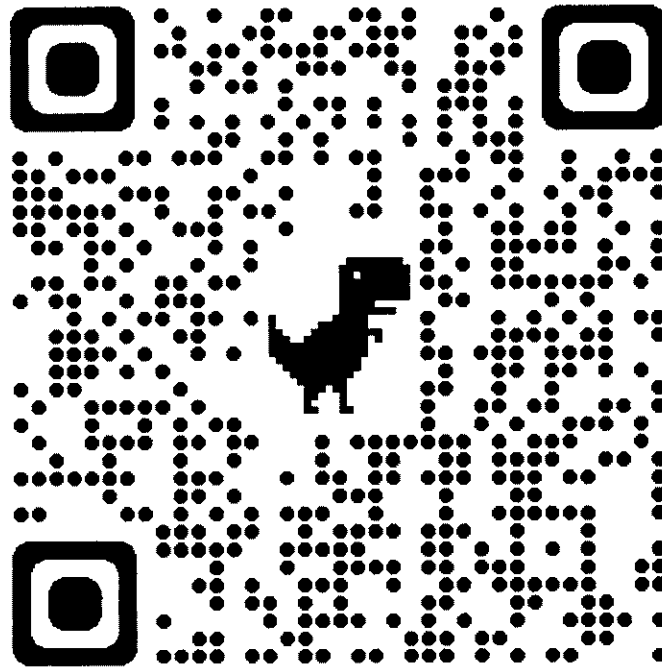


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*Memorandum in Support of Motion for Recon-  
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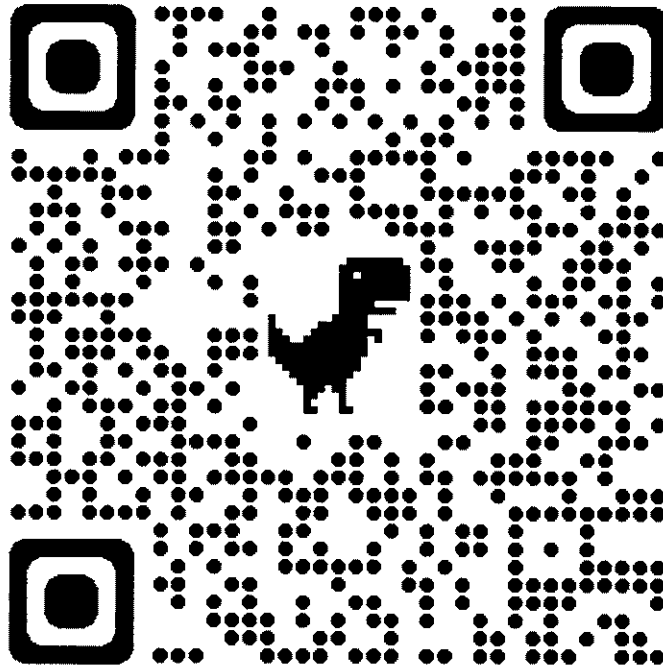


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*Reconsideration Exhibits*



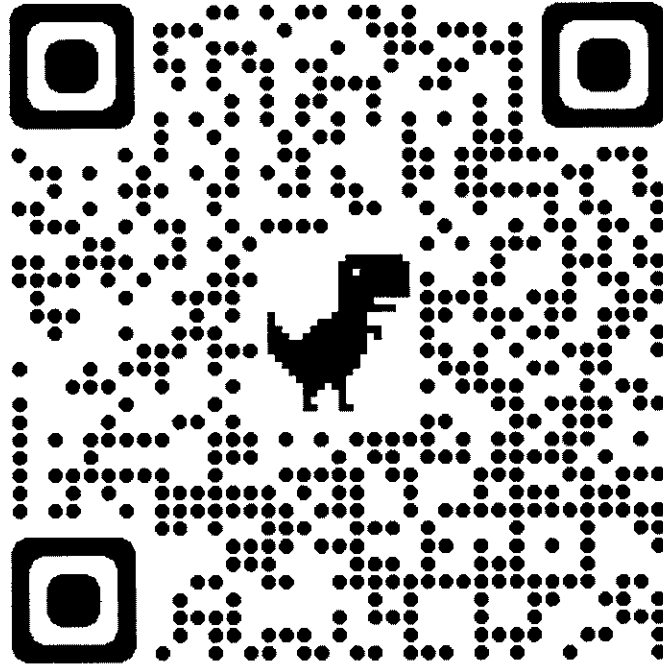
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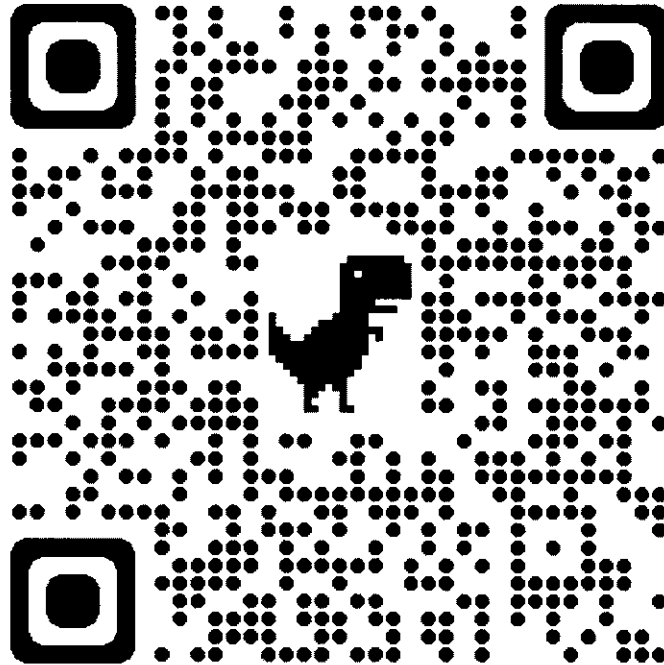
*Appellant's Brief [21-1921]*



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*Appellant's Appendix*

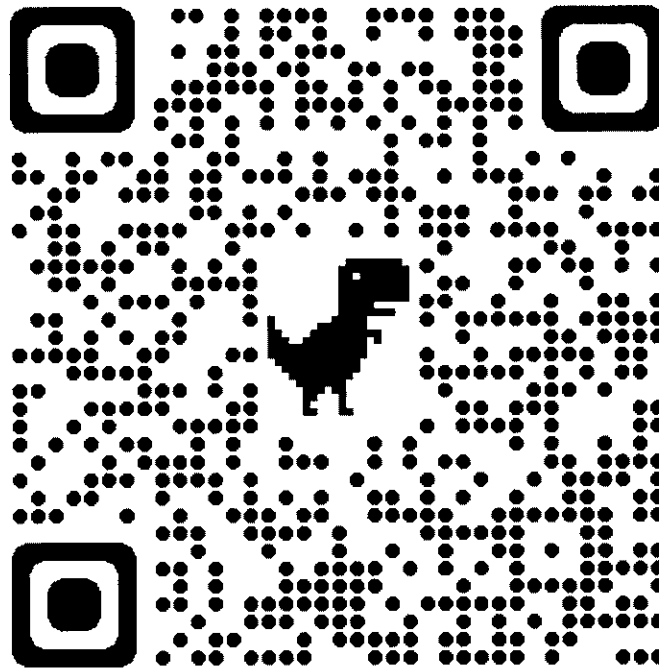


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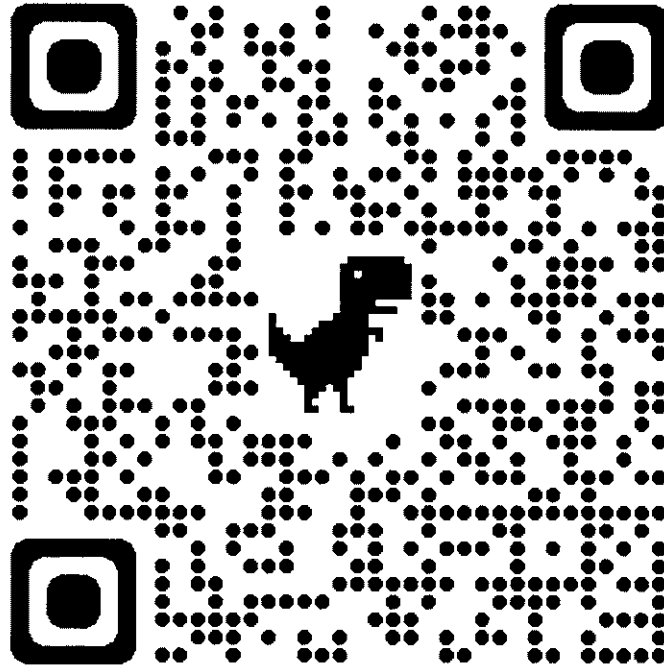
*Petition I (Including Appendix) to SCOTUS for  
Certiorari to the Court of Appeals of the First  
Circuit Before Judgment [21-6916] (Filed in  
Court of Appeals for the First Circuit)*



URL 6: <https://tinyurl.com/SCPETI>

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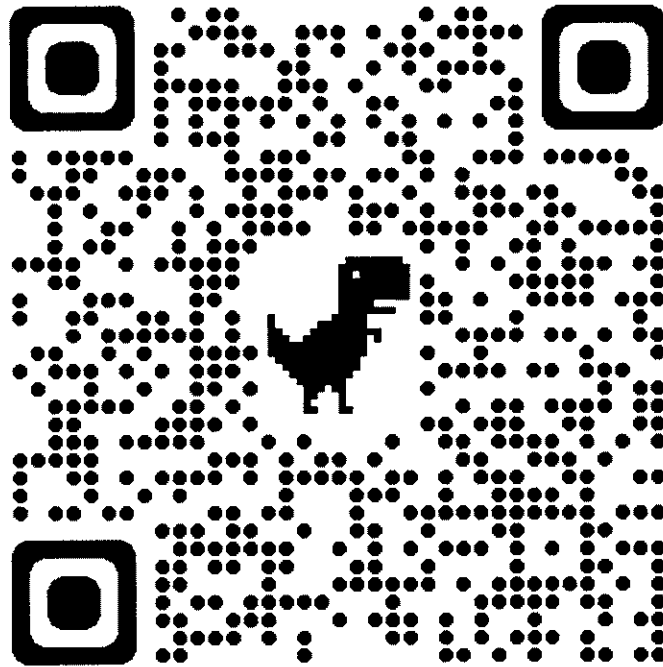
*Twitter's Appellee's Brief*



URL 7: <https://tinyurl.com/tatflm>

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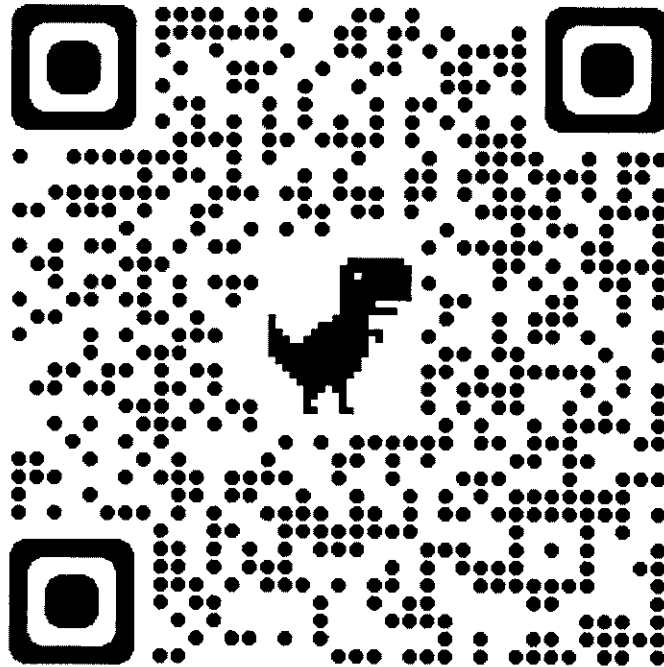
*Appellant's Reply Brief to Twitter's Appellee's  
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URL 8: <https://tinyurl.com/trtflm>

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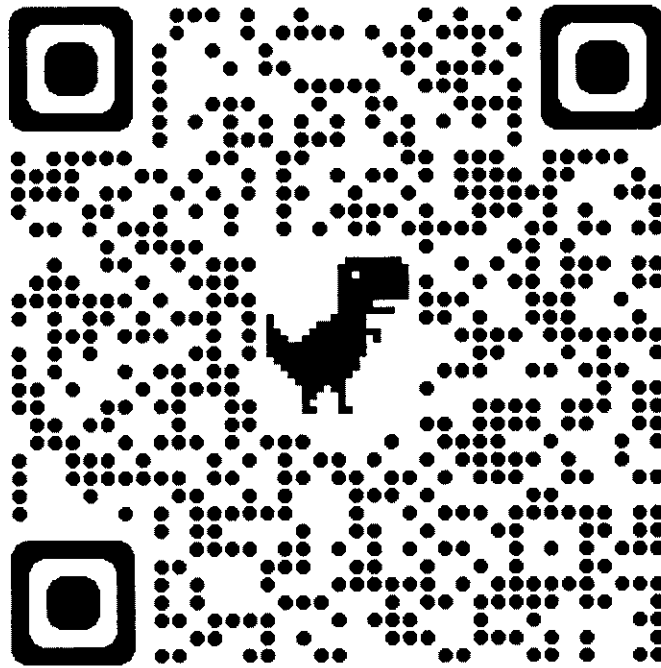
*Medium's Appellee's Brief*



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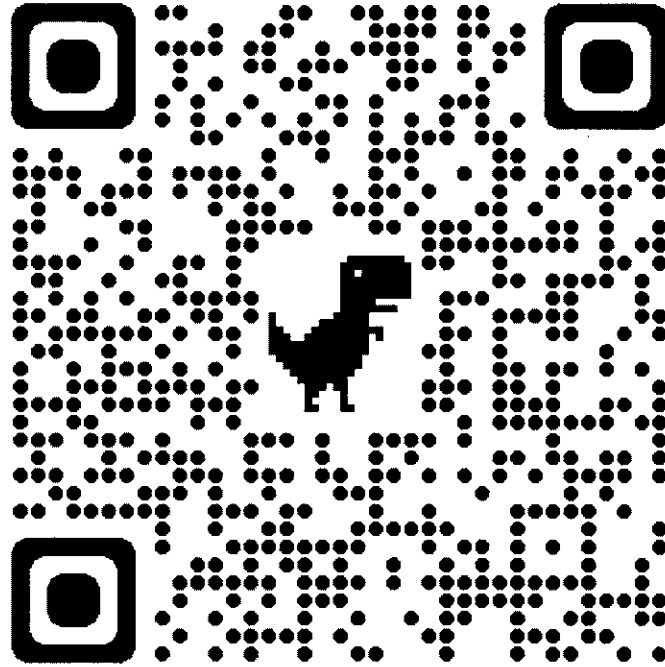
*Appellant's Reply Brief to Medium's Appellee's  
Brief*



URL 10: <https://tinyurl.com/mrtflm>

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*Telephone Transmission: Digital Transmission*



URL 11: [https://ethw.org/Telephone Transmission](https://ethw.org/Telephone%20Transmission)

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App. 54

*“Liability of Telegraph Companies for Fraud,  
Accident, Delay and Mistakes in the Transmis-  
sion and Delivery of Messages”*

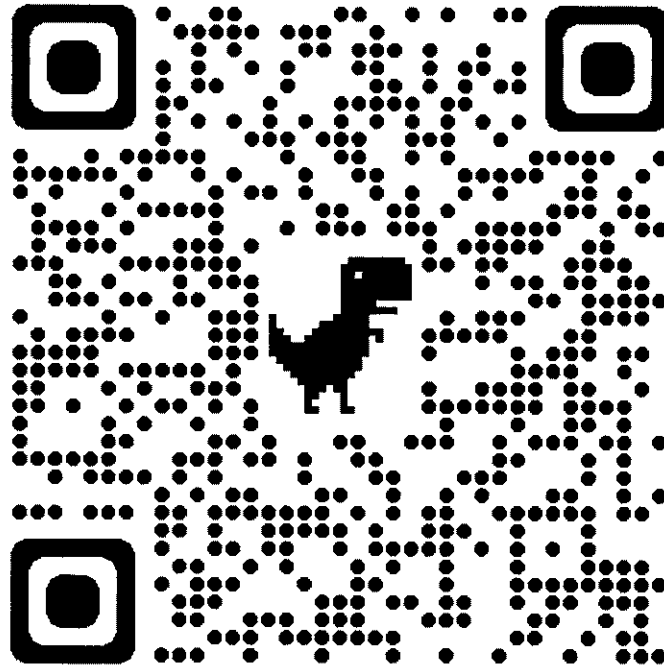


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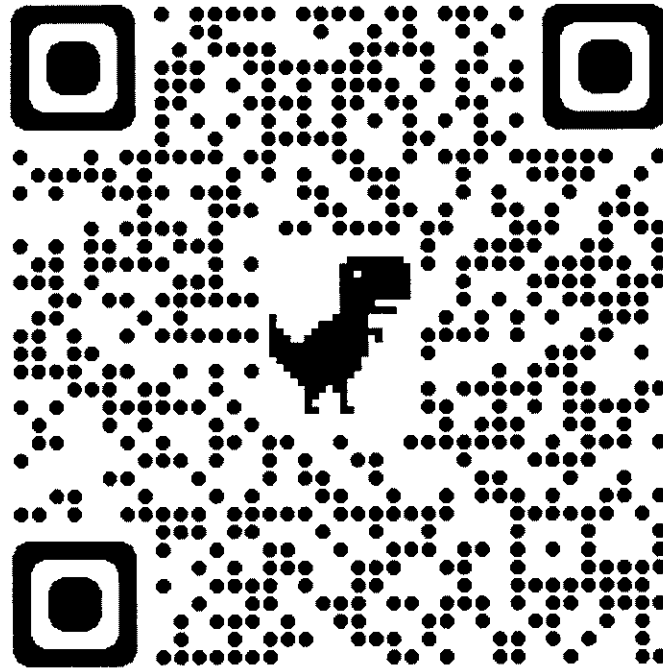
*“The Law of Telegraphs and Telegrams”*



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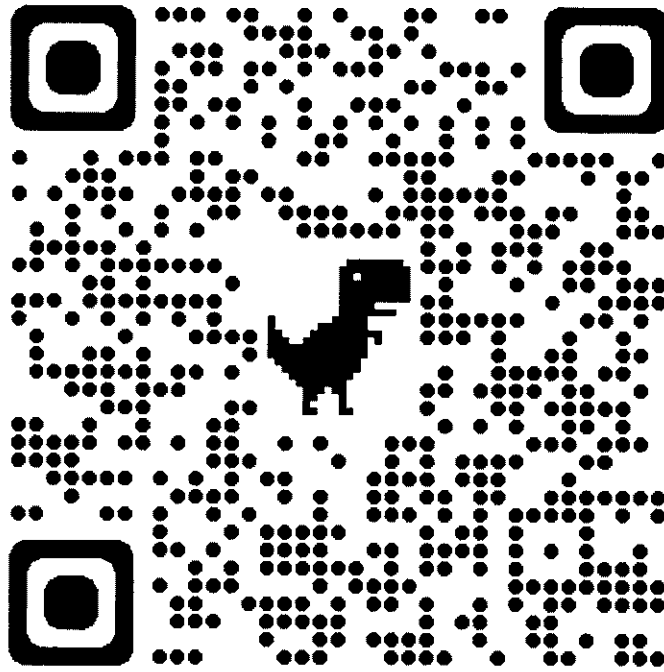
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URL 14: <https://www.internetforall.gov/>

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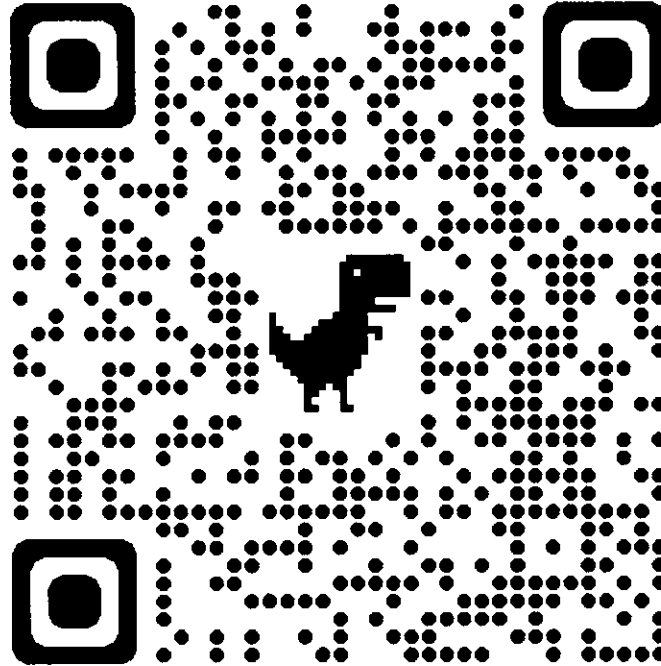
*Human Rights Due Diligence of Meta's Impacts  
in Israel and Palestine*



URL 15: <https://www.bsr.org/en/our-insights/report-view/meta-human-rights-israel-palestine>

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*“Why Isn’t the Supreme Court on Twitter?”*



URL 16: <https://newrepublic.com/article/158288/supreme-court-twitter>

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