

No. 22-____

IN THE
Supreme Court of the United States

JANE DOES NO. 1–6, ET AL.,
Petitioners,
v.
REDDIT, INC.,
Respondent.

**On Petition for a Writ of Certiorari to the
United States Court of Appeals
for the Ninth Circuit**

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

The petition presents a statutory interpretation question that has tremendous consequences for the protection of minors against sex trafficking. Child pornography is the root cause of much of the sex trafficking that occurs in the world today, and it is primarily traded on the Internet, through websites that claim immunity from suit under the Communications Decency Act (CDA), 47 U.S.C. § 230. Since 2018, however, the CDA includes a categorical carve-out for sex-trafficking claims entitled “No Effect on Sex Trafficking Law,” stating that “nothing” in the CDA “shall be construed to impair or limit . . . *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.” 47 U.S.C. § 230(e)(5)(A) (emphasis added). Petitioners in this case brought precisely such a claim. But despite the broad language of the CDA’s remedial exception, the Ninth Circuit panel held that it only extends to one subset of claims under Section 1595 based on a Section 1591 violation—only where the defendant’s conduct itself violated Section 1591—even though it is undisputed that under Section 1595, a defendant also may be culpable where the underlying Section 1591 violation was committed by a third party. This atextual interpretation of the CDA warrants review.

The Ninth Circuit’s ruling, if it stands, would immunize a huge class of violators who play a role in the victimization of children. Prior to the Ninth Circuit’s decision, several lower courts had reached conflicting decisions on this question of statutory construction. *See, e.g., Doe v. MindGeek USA Inc.*, 574 F. Supp. 3d 760 (C.D. Cal. 2021) (holding Section 230(e)(5)(A) applies to all Section 1595 claims

predicated on a third party's violation of Section 1591); *Doe v. Twitter, Inc.*, 555 F. Supp. 3d 889 (N.D. Cal. 2021) (same); *G.G. v. Salesforce.com, Inc.*, 2022 WL 1541408 (N.D. Ill. May 16, 2022) (holding Section 230(e)(5)(A) applies to Section 1595 claims only if the defendant's conduct violates Section 1591); *J. B. v. G6 Hosp., LLC*, 2021 WL 4079207 (N.D. Cal. Sept. 8, 2021) (same); *Doe v. Kik Interactive, Inc.*, 482 F. Supp. 3d 1242, 1251 (S.D. Fla. 2020) (same).

The question presented is:

Whether the exception to CDA immunity contained in 47 U.S.C. § 230(e)(5)(A)—which states “Nothing in this section (other than subsection (c)(2)(A)) shall be construed to impair or limit--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”—is limited solely to Section 1595 claims where the defendant itself has committed a predicate violation of Section 1591, even though Section 1595 also makes a defendant liable where it “knowingly benefits” “from participation in a venture” with a third party whose conduct violated Section 1591.

PARTIES

The petitioners are Jane Does No. 1–6 & John Does No. 2, 3, and 5. The respondent is Reddit, Inc.

DIRECTLY RELATED PROCEEDINGS

Doe v. Reddit, Inc., No. 21-56293, Ninth Circuit Court of Appeals, judgment entered October 24, 2022.

Doe v. Reddit, Inc., No. 8:21-cv-00768-JVS-KES, Central District of California, judgment entered October 28, 2021.

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OPINIONS BELOW

The October 24, 2022 opinion of the Court of Appeals, which is reported at 51 F.4th 1137, is set out at pp. 1a–20a of the Appendix. The October 7, 2021 decision of the District Court, which is unreported but available at 2021 WL 5860904, is set out at pp. 21a–41a of the Appendix.

JURISDICTION

The decision of the Court of Appeals was entered on October 24, 2022. This Court has jurisdiction pursuant to 28 U.S.C. § 1254(1). The Court of Appeals had jurisdiction pursuant to 28 U.S.C. § 1291. The District Court had jurisdiction pursuant to 28 U.S.C. § 1331.

STATUTES INVOLVED

Section 230(c)(1) of Title 47 provides: “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.”

Section 230(e)(5)(A) of Title 47 is titled “No Effect on Sex Trafficking Law” and states: “Nothing in this section (other than subsection (c)(2)(A)) shall be construed to impair or limit--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.”

Section 1595 of Title 18 provides: “An individual who is a victim of a violation of this chapter may bring a civil action against the perpetrator (or whoever knowingly benefits, financially or by receiving anything of value from participation in a venture which that person knew or should have known has engaged in an act in violation of this chapter) in an appropriate

district court of the United States and may recover damages and reasonable attorneys fees.”

Section 1591 of Title 18 provides: “Whoever knowingly--(1) in or affecting interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States, recruits, entices, harbors, transports, provides, obtains, advertises, maintains, patronizes, or solicits by any means a person; or (2) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraph (1), knowing, or, except where the act constituting the violation of paragraph (1) is advertising, in reckless disregard of the fact, that means of force, threats of force, fraud, coercion described in subsection (e)(2), or any combination of such means will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act, shall be punished as provided in subsection (b).”

The balance of Section 230 of Title 47 and Sections 1591 and 1595 of Title 18, which are incorporated in Section 230(e)(5)(A) of Title 47, are set out in pp. 43a–53a of the Appendix.

INTRODUCTION

Petitioners and their children became victims of sex trafficking through Reddit Inc.’s (“Reddit”) website. Far from serving as a neutral bulletin board for third-party content, Reddit creates a thriving platform for child pornography and sex trafficking. Petitioners brought claims against Reddit arising out of Reddit’s operations, including Reddit’s knowing receipt and distribution of child pornography depicting these minors; its refusal to ban repeat offenders who traffic

in child pornography; and its practice of allowing traffickers themselves to moderate website pages containing child pornography.

This case concerns a narrow exception to Section 230(c)(1)'s broad immunity. Section 1595(a) of Title 18 provides sex-trafficking victims—like the children in this case—with a civil remedy not only against traffickers, but “whoever knowingly benefits” from “participation in a venture” that the person knew or even “should have known” was engaged in illegal trafficking. For years, courts held that Section 230(c)(1) immunized website defendants from beneficiary claims under Section 1595(a). In 2018, Congress enacted the Allow States and Victims to Fight Online Sex Trafficking Act/Stop Enabling Sex Traffickers Act (“FOSTA”) to rectify the situation. This legislation made clear that Section 1595(a)'s broad remedy extends to cases against the Internet companies operating the virtual spaces where sex trafficking has grown exponentially. FOSTA created Section 230(e)(5)(A) of Title 47, which makes clear that Section 230(c)(1) has “No effect on sex trafficking law” and that “Nothing in this section (other than subsection (c)(2)(A)) shall be construed to impair or limit--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 Title 18.”

The Ninth Circuit's decision rewrote Section 230(e)(5)(A)'s plain text. Under the express terms of the statute, Section 230(c)(1) has “[n]o effect on sex trafficking law” and “any” Section 1595 claim is available to human trafficking victims if “the conduct” underlying that claim violates Section 1591. Yet the Ninth Circuit held a “website can only be held liable” under Section 1595(a) “if its own conduct—not a third

party’s—violates 18 U.S.C. § 1591.” App. 10a. This conclusion departs from the plain text. Nowhere does Section 230(e)(5)(A) state the *defendant’s own conduct* must constitute a violation of Section 1591. “This Court normally interprets a statute in accord with the ordinary public meaning of its terms at the time of its enactment” because “only the words on the page constitute the law adopted by Congress and approved by the President.” *Bostock v. Clayton Cnty.*, 140 S. Ct. 1731, 1738 (2020). The ordinary public meaning of Section 230(e)(5)(A) is clear: Section 230(c)(1) has “[n]o effect on sex trafficking law” and “any claim” brought under Section 1595 is not subject to immunity including where the civil defendant knowingly benefits from participation in a venture involving a third party’s “conduct” that “constitutes a violation of section 1591.”

The implications of reading *defendant’s own conduct* into Section 230(e)(5)(A) are significant. Under the Ninth Circuit’s interpretation, a civil plaintiff must plead the website defendant committed criminal acts with criminal *mens rea* under Section 1591 of Title 18. Website defendants are using this narrow construction to eliminate victims’ claims at the pleading stage and short-stop any discovery into their knowledge, benefit, and participation in sex-trafficking ventures.

After Petitioners’ appeal to the Ninth Circuit was fully briefed, this Court granted the petition for writ of certiorari in *Gonzalez v. Google LLC*, No. 21-1333, to address the scope of immunity under Section 230(c)(1). In this case, the predicate assumption underlying the parties’ dispute is that absent an exception, Section 230(c)(1) immunity would apply under Ninth Circuit decisions like *Gonzalez v. Google LLC*, 2 F.4th 871 (9th Cir. 2021) and *Dyroff v. Ultimate Software Group, Inc.*, 934 F.3d 1093 (9th Cir. 2019). The Court’s forthcoming

decision in *Gonzalez* could radically change that assumption. Like the plaintiffs in *Gonzalez*, Petitioners allege Reddit’s conduct goes beyond merely publishing third-party content. Petitioners respectfully submit that if the Court declines to grant this petition to answer the question presented, the petition should be held pending the Court’s disposition of the *Gonzalez* case and then a GVR order should issue.

STATEMENT OF THE CASE

I. Historical and Legal Background

A. Congress Addresses the Rising Problem of Sex Trafficking Through Passage of the Trafficking Victims Protection Act and Trafficking Victims Protection Reauthorization Acts

Congress has created a broad statutory scheme to combat the problem of human trafficking, including sex-trafficking crimes. In 2000, Congress enacted the Trafficking Victims Protection Act (“TVPA”). Pub. L. No. 106-386, 114 Stat. 1464, 1486–88 (Oct. 28, 2000). This legislation defined what conduct constitutes sex and labor trafficking and focused on prevention, protection, and prosecution. Among other things, the TVPA added new criminal provisions to the U.S. Code that prohibit sex trafficking of children or by force, fraud or coercion (18 U.S.C. § 1591). *Id.* § 112 (titled “strengthening prosecution and punishment of traffickers”). Three years later, Congress passed the Trafficking Victims Protection Reauthorization Act of 2003 (“TVPRA”). Pub. L. No. 108-193, 117 Stat. 2875, 2878 (Dec. 19, 2003). The TVPRA created a civil remedy to allow victims of sex trafficking, slavery, and forced labor to sue for damages in federal court. *Id.* § 4 (creating 18 U.S.C. § 1595(a)). Under the newly

authorized Section 1595(a), sex trafficking victims could sue “the perpetrator” of criminal violations of the previously enacted Sections 1589, 1590, or 1591 of Title 18 of the U.S. Code:

(a) An individual who is a victim of a violation of Section 1589, 1590, or 1591 of this chapter may bring a civil action against the perpetrator in an appropriate district court of the United States and may recover damages and reasonable attorneys’ fees.

18 U.S.C. § 1595(a) (2003) (emphasis added). These provisions cover forced labor (Section 1589); trafficking involving peonage, slavery, involuntary servitude, or forced labor (Section 1590); and sex trafficking of children or by force, fraud, or coercion (Section 1591).

In 2008, Congress again addressed the problem of child sex trafficking by amending Section 1595 of the TVPRA to enhance victims’ civil recourse—including by expanding the individuals and entities against whom trafficking victims could bring civil suits. The new Section 1595 expanded civil liability by authorizing claims not only against the “perpetrator,” *i.e.*, the victim’s trafficker, but also against “whoever knowingly benefits, financially or by receiving anything of value from participation in a venture which that person knew or should have known has engaged in an act in violation of this chapter.” Pub. L. No. 110-457 § 221(2), 122 Stat. 5044, 5067 (Dec. 23, 2008) (header: “enhancement of civil action”).

The amended, and operative, Section 1595(a) reads:

(a) An individual who is a victim of a violation of this chapter may bring a civil action against the perpetrator (*or whoever knowingly benefits,*

financially or by receiving anything of value from participation in a venture which that person knew or should have known has engaged in an act in violation of this chapter) in an appropriate district court of the United States and may recover damages and reasonable attorneys' fees.

18 U.S.C. § 1595(a) (emphasis added).

B. Congress Clarifies Section 230 Does Not Immunize Interactive Computer Service Providers From Suit Under the TVPRA

In 2018, Congress extended Section 1595's broad civil remedy to victims of sex trafficking on the Internet. Congress did so by enacting the Allow States and Victims to Fight Online Sex Trafficking Act/Stop Enabling Sex Traffickers Act ("FOSTA"). As the name suggests, FOSTA addresses the proliferation of sex trafficking online. *See* Pub. L. No. 115-164, 132 Stat. 1253 (Apr. 11, 2018).

Through FOSTA, Congress amended Section 230 of the Communications Decency Act. Section 230(c)(1) generally provides that "[n]o provider or user of an interactive computer service shall be treated as the publisher or speaker of information provided by another information content provider." 47 U.S.C. § 230(c)(1). FOSTA created an express exception to Section 230(c)(1) to carve out immunity from claims arising under Section 1595(a) of the TVPRA. The amendment in relevant part states:

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.

47 U.S.C. § 230(e)(5)(A) (emphasis added). Congress permitted victims of sex trafficking to sue interactive computer service providers—website operators, like Reddit—for “any claim” under Section 1595 predicated on “conduct” constituting a Section 1591 violation. Because Section 1595 authorizes claims against whoever “knowingly benefits” “from participation in a venture” that has violated Section 1591, the FOSTA amendment authorized civil remedies against websites that were perpetrators of Section 1591 violations *or* had benefited from someone else’s illegal conduct in violation of that same statute. *See* Pub. L. No. 115-164 § 4, 132 Stat. 1253, 1254 (header: “ensur[e] ability to enforce federal and state criminal *and civil law* relating to sex trafficking”) (emphasis added).

II. Proceedings Below

A. District Court

Petitioners brought this action against Reddit, alleging that Reddit knowingly benefits from child sex trafficking through its receipt and distribution of child pornography. Petitioners allege Reddit is liable under 18 U.S.C. § 1595 as someone who “knowingly benefits, financially or by receiving anything of value from participation in a venture which that person knew or should have known has engaged in an act in violation of this chapter.” Petitioners also allege that Reddit violated various other federal and state laws, including receipt and distribution of child pornography under 18 U.S.C. § 2252A.

Reddit is an enormously popular social media platform that bills itself as “the front page of the internet.”

App. 66a (First Amended Complaint (“FAC”) ¶ 37). It is the fourth most popular website in the United States, with more than 52 million daily active users who collectively post on the website billions of times each year. App. 65a (FAC ¶ 36). Reddit structures its website through a series of small, searchable communities called “subreddits,” *i.e.*, forums or boards devoted to specific topics. App. 66a, 69a (FAC ¶¶ 38, 42–43). The subreddits are housed in “interest groups,” which makes it easy to locate similar subreddits. App. 78a (FAC ¶ 70).

Petitioners’ complaint describes the sex trafficking of Jane Doe No. 1 and the other Petitioners’ minor daughters. Jane Doe No. 1 was a minor when her now ex-boyfriend created multiple videos of the two of them engaging in sexual intercourse, sometimes without her knowledge. App. 106a (FAC ¶ 143). Her ex-boyfriend then posted one of these illegal pornographic videos on Reddit, alongside misogynistic and racist remarks, and encouraged other Reddit users to view and masturbate to the video. App. 107a (FAC ¶¶ 145–147). Jane Doe No. 1 reported this content to Reddit as soon as she discovered it, making clear that she was the person in the video, was underage, and had never consented to it being uploaded. App. 107a (FAC ¶ 148). Each time she reported, Reddit took days to remove the content, but then allowed it to be reposted. App. 107a–108a (FAC ¶ 149). Once Jane Doe No. 1 eventually succeeded in having her abuser’s Reddit account banned, Reddit permitted him to make a new one. App. 108a (FAC ¶ 151).

Jane and John Does No. 2–6 are the parents of minors who were coerced by one or more individuals into providing sexually explicit images. The same individual(s) are believed to be Reddit moderators who

then posted the child pornography on Reddit. App. 112a, 118a (FAC ¶¶ 165, 187). The minors' parents repeatedly requested that Reddit remove the images, but even after the images were eventually removed, they promptly and repeatedly reappeared on Reddit's site. Even when the National Center for Missing and Exploited Children ("NCMEC") has stepped in to help persuade Reddit to remove the illegal content, the cycle has repeated itself—each time, Reddit has permitted this content to be posted again. App. 109a–134a (FAC ¶¶ 148–238).

Petitioners spend hours looking through disturbing subreddits to locate posts of the pornographic images of their children and to then fight with Reddit to have the content removed. App. 108a, 112a–113a, 118a, 120a–121a, 124a (FAC ¶¶ 152–53, 168–169, 185, 194–196, 205–206). Petitioners have documented the incessant, repeated posting of sexually explicit content featuring themselves or their minor children on more than 75 different sub-reddit pages. App. 108a, 113a, 121a, 130a–133a (FAC ¶¶ 152–153, 169, 195–196, 231). That number only includes the pages they have found on their own and reported to Reddit.

Each Petitioner alleges devastating injuries caused by Reddit's knowing participation in this repeated trafficking, including anxiety, humiliation, distress, sleeplessness, academic failure, and suicidal thoughts. App. 109a, 115a, 122a, 124a, 127a, 129a (FAC ¶¶ 154, 173, 200, 210, 221, 229). In the case of Jane Doe No. 1, she was forced to withdraw from school and seek therapy. App. 109a (FAC ¶ 154). Likewise, Jane and John Doe No. 5 were forced to withdraw their daughter from school due to failing academic performance stemming from her ongoing trauma due to her victimization via child sex trafficking, for which she is in active treatment. App. 127a (FAC ¶ 221).

Reddit knows that some of the most popular Reddit subreddits are the hundreds that specifically post, share, and solicit child pornography, such as /r/BestofYoungNSFW, /r/xsmallgirls, /r/teensdirtie, and /r/TeenBeauties. App. 72a–74a, 80a, 86a–88a, 101a–106a (FAC ¶¶ 53–60, 74, 90–95, 127–142). Indeed, the titles and comments on these, and many other, Reddit pages confirm that the subjects are children. For example, users write “amateur teens” and “u18” to refer to subjects that are under 18. App. 91a–93a (FAC ¶¶ 97–105). Others explicitly state that the content is “[l]egally speaking . . . child porn,” such as a post on the subreddit /r/PetiteNSFW that links to video content of a girl that users commented was “proven before to have been underage when this was filmed.” App. 91a–92a (FAC ¶ 99). In addition, beyond titles and comments, Reddit’s algorithms specifically enable users to easily locate and share child pornography. App. 69a (FAC ¶¶ 42–44).

The proliferation of child pornography on its website is profitable for Reddit. Child pornography increases user engagement on Reddit’s platform and allows Reddit to extract higher advertiser fees. Reddit generates revenue through ad-free premium memberships, and over \$100 million in annual advertising dollars driven by its 1.34 trillion monthly visitors. App. 70a, 75a–78a (FAC ¶¶ 48, 62–68). “Reddit Ads” promises advertisers that it will “connect your brand to our 52 million daily active users” by finding subreddits to “display your ad to the right audience based on a user’s browsing behavior on Reddit.” App. 78a–79a (FAC ¶¶ 69–71). Tools like RedditList and FrontPageMetrics also identify subreddits likely to generate views. App. 80a (FAC ¶ 73). The forums that feature child pornography are some of the most popular—and hence

profitable—and Reddit advertises on them, including at least one of the subreddits where Petitioners’ underage pornographic images were featured. App. 74a, 80a, 130a–134a (FAC ¶¶ 60, 74, 230–236). By turning a blind eye to subreddits obviously geared to child pornography and by failing to direct its moderators to limit such illegal content, Reddit enhances its number one goal: profit. App. 64a, 72a, 76a, 80a, 82a (FAC ¶¶ 33, 53, 64, 75, 82).

The more views Reddit gets, the more it can attract advertisers and generate revenue. App. 80a–82a (FAC ¶¶ 75, 80). Reddit refuses to take down content, including content that violates its “no child pornography policy,” because it benefits financially from the user traffic these posts drive to the site, and because it receives advertising revenue by maintaining unlawful yet popular content on its child pornography subreddits. App. 72a, 80a–82a (FAC ¶¶ 53, 75, 80, 82).

Reddit moved under Fed. R. Civ. P. 12(b)(6) to dismiss Petitioners’ complaint for failure to state a claim upon which relief may be granted, asserting that Section 230 barred all claims. The District Court agreed and dismissed all of Petitioners’ claims. The District Court concluded “that § 230 immunizes Reddit” because “[Petitioners’] claims seek to treat Reddit as a publisher or speaker of information provided by other content providers.” App. 27a, 33a. The District Court also interpreted Section 230(e)(5)(A) to require a plaintiff bringing a Section 1595(a) civil claim against a website like Reddit to plead that the website itself violated the criminal provision Section 1591. App. 35a–39a.

B. Court of Appeals

Petitioners appealed the District Court’s holding with respect to Section 230(e)(5)(A) and the Ninth

Circuit panel (Smith, Nelson, *JJ.*, Drain, *DJ.*, sitting by designation) affirmed. Despite the broad language that Section 230 has “[n]o effect on sex trafficking law” and “nothing” in Section 230 should limit “any claim” brought under Section 1595 if “the conduct” underlying the claim violates Section 1591, the Ninth Circuit held 47 U.S.C. § 230(e)(5)(A) “establishes that a website can only be held liable” for a Section 1595 civil claim “if its own conduct—not a third party’s—violates 18 U.S.C. § 1591”—the criminal section of the TVPRA. App. 10a. Relying on *OBB Personenverkehr AG v. Sachs*, 577 U.S. 27 (2015), which considered a different statute using different language, the Ninth Circuit observed “the facts ‘underlying’ a claim are those most important to proving the claim.” App. 11a. Ignoring the importance of the underlying “venture,” the Court of Appeals’ opinion declared that for a “beneficiary suit *against a defendant-website*, the most important component is the *defendant-website’s* own conduct—its ‘participation in the venture.’” App. 11a (quoting 18 U.S.C. 1595(a)) (emphasis in original). The court thus concluded, “a website’s own conduct must violate 18 U.S.C. § 1591 for the immunity exception to apply.” App. 12a. To reach this conclusion, the majority (Judge Smith and Judge Drain) also relied on individual legislators’ statements from FOSTA’s legislative history. App. 13a–16a. Judge Nelson concurred in part, declining to join the majority’s discussion of the legislative history. App. 20a.

III. Intervening Grant of the Petition for Writ of Certiorari in *Gonzalez*

After Petitioners’ appeal to the Ninth Circuit had been fully briefed, this Court granted the petition for writ of certiorari in *Gonzalez v. Google LLC*, No. 21-1333, to address the scope of immunity under

47 U.S.C. § 230(c)(1). In *Gonzalez*, the plaintiffs alleged that Google LLC (“Google”), which owns the video website YouTube, had knowingly provided material assistance to, and had aided and abetted, the terrorist organization ISIS’s conduct in violation of the Anti-terrorism Act. The plaintiffs alleged Google used algorithms to target users with characteristics indicating that they would be interested in ISIS videos and recommended the users view the content. *Gonzalez v. Google LLC*, 2 F.4th 871, 880–83 (9th Cir. 2021). These services were critical in the growth and activity of ISIS, including recruiting members who carried out lethal terrorist attacks. *Id.* The district court dismissed the plaintiffs’ complaint on the grounds that Section 230 barred all of their claims. *Id.* at 882. The court of appeals affirmed, with each member of the panel writing separately and noting the court is bound by erroneous interpretations of Section 230 in Ninth Circuit precedent. Dissenting in part, Judge Gould observed “there is a rising chorus of judicial voices cautioning against an overbroad reading of the scope of Section 230 immunity.” *Id.* at 885 (Gould, J., concurring in part, dissenting in part). This Court granted the petition for writ of certiorari to address the scope of conduct shielded from litigation under Section 230(c)(1).

REASONS FOR GRANTING THE WRIT

I. The Court Should Resolve Whether Section 230(e)(5)(A) Requires Plaintiffs to Prove the Website’s Own Conduct Violated the Criminal Sex Trafficking Statute

Rule 10(c) provides that certiorari is appropriate if “a United States Court of Appeals has decided an important question of federal law that has not been, but should be, settled by this Court” S. Ct. Rule

10(c). Here, the Ninth Circuit’s decision departs from the plain text of 47 U.S.C. § 230(e)(5)(A), ignoring the broad remedial language that Section 230 has “[n]o effect on sex trafficking law” and “nothing” in the CDA limits “any claim” under Section 1595 if the “conduct underlying the claim” violates Section 1591.

An atextual reading of Section 230(e)(5)(A) will eviscerate civil remedies against the Internet companies that gain the most from sex trafficking crimes. It will apply in scores of cases pending now and that will arise in the years to come among lower courts that had reached conflicting decisions concerning the scope of Section 230(e)(5)(A) prior to the Ninth Circuit’s decision. Petitioners in this case assert that Reddit allows known traffickers to upload child pornography to its website, imposes obstacles for users to report child pornography, and allows traffickers themselves to moderate community subreddits containing child pornography—all because the sexual abuse of children generates user traffic and advertising revenue. But, under a narrow interpretation of Section 230(e)(5)(A) requiring Petitioners to allege Reddit itself committed a criminal violation of Section 1591, Petitioners and countless other victims cannot even state a claim and raise an inquiry into a website operator’s behind-the-scenes knowledge, participation, and action concerning the endemic presence of child pornography on its website. Justice Thomas warned that “[e]xtending § 230 immunity beyond the natural reading of the text can have serious consequences”—and cited “giving companies immunity from civil claims for ‘knowingly hosting illegal child pornography’” as an example of something courts “should be certain that is what the law demands” when interpreting Section 230. *Malwarebytes, Inc. v. Enigma Software Grp. USA, LLC*, 141 S. Ct. 13, 18 (2020) (Thomas, J.) (statement

respecting the denial of certiorari) (citation omitted). The Ninth Circuit’s decision has done just that, extending Section 230 beyond its plain text.

A. The Ninth Circuit’s Decision Effectively Eliminates Civil Remedies Congress Made Available to Victims Against Internet Companies

More than forty years ago, this Court observed that “the exploitive use of children in the production of pornography has become a serious national problem.” *New York v. Ferber*, 458 U.S. 747, 749 (1982). The expansion of the Internet multiplied that problem many times over. “Because child pornography is now traded with ease on the Internet, ‘the number of still images and videos memorializing the sexual assault and other sexual exploitation of children, many very young in age, has grown exponentially.’” *Paroline v. United States*, 572 U.S. 434, 440 (2014) (citation omitted). The creation of child pornography is a part of criminal sex trafficking. In 2020, NCMEC reported a 97.5% increase in “online enticement”—conduct involving “an adult communicating with someone believed to be a child via the internet with the intent to commit a sexual offence or abduction.”¹ This “online enticement” can lead to a full spectrum of child sexual exploitation—including production of child pornography.² Section 1591(a)(1) criminalizes this conduct.

The majority of victims under Section 1591(a)(1) are recruited and advertised online. Since 2000,

¹ WeProtect Global Alliance, *Global Threat Assessment 2021*, p. 36, available at <https://www.weprotect.org/global-threat-assessment-21/#report>.

² *Id.*

traffickers have obtained 55% of sex-trafficking victims on the Internet, through social media platforms, web-based messaging applications, online chat rooms, dating apps, classified advertisements, or job boards.³ In most instances, solicitation of commercial sex no longer takes place in physical spaces (such as back alleys and street corners) because traffickers use the Internet to advertise victims. During the past five years, in 81% to 90% of cases, the criminal defendant trafficker sought buyers for his victims on the Internet.⁴ Traffickers use websites to perpetrate their crimes because these “online advertising platforms provide traffickers and purchasers a highly convenient forum with limited public exposure.”⁵ The dramatic increase in sex trafficking online, including the creation and distribution of child pornography, demonstrates that “sex trafficking thrives in the ecosystem the Internet creates: low-cost, low-risk, and high-profit.”⁶

Although the Internet is now the dominant venue for sex trafficking crimes, the companies operating the websites and social media platforms where these crimes occur have escaped accountability. Section 1595(a) of Title 18 provides sex trafficking victims with a federal civil remedy not only against “perpetrators,” but also “whoever knowingly benefits, financially or by receiving anything of value from participation in a venture” that the beneficiary “knew or should have

³ Human Trafficking Institute, 2021 Federal Human Trafficking Report, p. 38, available at <https://traffickinginstitute.org/federal-human-trafficking-report/>.

⁴ *Id.* at 44–45.

⁵ Mary Graw Leary, The Indecency and Injustice of Section 230 of the Communications Decency Act, 41 Harv. J.L. & Pub. Pol’y 553, 571 (2018).

⁶ *Id.*

known” involved human trafficking crimes under Title 18. Extending this broad remedy against beneficiaries of trafficking filled a gaping hole in the statutory scheme. Victims of sex trafficking often do not know the identity of the “perpetrator” who “recruits” or “entices” or “solicits” them in violation of 18 U.S.C. § 1591(a)(1). By providing a private right of action against persons who “benefit” from “participation in a venture” involving human trafficking crimes, Congress ensured that victims can obtain compensatory and punitive damages and injunctive relief from known actors who profit from their abuse.

Yet for years, website defendants have used Section 230 as a defense to Section 1595(a) claims. So when a fourteen-year-old girl sued Backpage.com, LLC, the company who owned the website where her trafficker admitted to displaying pornographic photographs of her as advertisements to sell her for sexual services, the District Court granted the website defendant’s motion to dismiss and explained that Section 230 provided a complete defense. *M.A. ex rel. P.K. v. Vill. Voice Media Holdings, LLC*, 809 F. Supp. 2d 1041, 1058 (E.D. Mo. 2011) (“Congress has declared such websites to be immune from suits arising from such injuries. It is for Congress to change the policy that gave rise to such immunity.”). Presented with similar allegations, the First Circuit reached the same conclusion. *See Doe No. 1 v. Backpage.com, LLC*, 817 F.3d 12, 23 (1st Cir. 2016).

Congress eliminated website defendants’ special immunity in 2018. By enacting FOSTA, Congress established Section 230(c)(1) has “[n]o effect on sex trafficking law” and that “[n]othing . . . shall be construed to impair or limit . . . any claim in a civil action brought under Section 1595 of title 18” as long as “the

conduct underlying the claim constitutes a violation of section 1591 of that title.” 47 U.S.C. § 230(e)(5)(A). Section 1595(a) creates a private right of action for victims of a variety of human trafficking crimes, but only victims of Section 1591—which criminalizes sex trafficking—can use Section 230(e)(5)(A) to sue websites. Through FOSTA, Congress established that Section 1595(a)’s broad civil remedies extend to claims against all types of defendants who benefit from sex trafficking—including websites like Reddit.

Despite the plain statutory text, Judge Smith, writing for a majority of the Ninth Circuit panel, read Section 230(e)(5)(A) to apply only if the website defendant itself committed the underlying Section 1591 violation. This approach erects a nearly insurmountable barrier to trafficking victims’ ability to bring civil claims against website defendants. *First*, it requires civil plaintiffs to plead and prove the website defendant acted with criminal *mens rea*. While (civil) Section 1595(a) and (criminal) Section 1591(a)(2) target similar conduct, only criminal beneficiary conduct requires actual knowledge of the Section 1591(a)(1) violation. *See* 18 U.S.C. § 1591(a)(2) (person “benefits . . . from participation in a venture”—defined as “*knowingly* assisting, supporting, or facilitating a violation of” § 1591(a)(1)) (emphasis added). For a civil claim, constructive knowledge is sufficient. *See* 18 U.S.C. § 1595(a) (“person *knew or should have known*” the “venture” “engaged in an act in violation of this chapter”) (emphasis added). Requiring civil plaintiffs to establish that a website defendant acted with criminal *mens rea* significantly curtails victims’ private right of action.

Second, this approach requires civil plaintiffs to prove the more demanding “participation in a venture”

standard for criminal acts. Section 1591(e)(4)—the criminal provision—defines “participation in a venture” as “knowingly assisting, supporting, or facilitating a violation of” Section 1591(a)(1). That definition of “participation in a venture” is not incorporated into Section 1595, which does not define the term at all. For a civil claim under Section 1595(a), the plaintiff need only “allege at least a showing of a continuous business relationship between the trafficker and [defendant] such that it would appear that the trafficker and [defendant] have established a pattern of conduct or could be said to have a tacit agreement.” *M.A. v. Wyndham Hotels Resorts, Inc.*, 425 F. Supp. 3d 959, 970 (S.D. Ohio 2019). Courts repeatedly have rejected transposing the criminal “participation in a venture” standard onto civil beneficiary claims. *See, e.g., E.S. v. Best W. Int’l, Inc.*, 510 F. Supp. 3d 420, 427 (N.D. Tex. 2021) (citing cases). In the context of a non-website defendant, the Eleventh Circuit explained that “transposing” the “statutory definition from this criminal section to the civil cause of action” is improper because “the civil provisions of Section 1595(a) make no sense with Section 1591’s definition of ‘participation in a venture’ read in” since it makes the “should have known” language in Section 1595 “superfluous.” *Doe #1 v. Red Roof Inns*, 21 F.4th 714, 724 (11th Cir. 2021) (“[W]e get a nonsense sentence: benefited ‘from [*knowingly* assisting, supporting, or facilitating a violation of subsection (a)(1)] which that person knew *or should have known* has engaged in an act in violation of this chapter.”) (alterations and emphasis in original).

Third, the Ninth Circuit’s reading of Section 230(e)(5)(A) creates a two-tier liability structure for website and non-website defendants. Sex trafficking victims have used their private right of action to seek redress from companies, such as owners of hotels, that

financially benefit from sex trafficking on their premises. *See, e.g., Red Roof Inns*, 21 F.4th at 723–26; *Ricchio v. McLean*, 853 F.3d 553, 556 (1st Cir. 2017); *A.B. v. Marriott Int’l, Inc.*, 455 F. Supp. 3d 171, 188 (E.D. Pa. 2020); *A.W. v. Red Roof Inns, Inc.*, 2022 WL 17741050 (S.D. Ohio Dec. 16, 2022); *J.C. v. Choice Hotels Int’l, Inc.*, 2020 WL 6318707 (N.D. Cal. Oct. 28, 2020); *Doe S.W. v. Lorain-Elyria Motel, Inc.*, 2020 WL 1244192 (S.D. Ohio Mar. 16, 2020); *H.H. v. G6 Hospitality, LLC*, 2019 WL 6682152 (S.D. Ohio Dec. 6, 2019). In those cases involving non-website defendants, the courts have uniformly held beneficiary defendants to the civil standard; they have not required plaintiffs to establish that beneficiary defendants engaged in the underlying criminal conduct.

Here, the Ninth Circuit read FOSTA to mean “a website can only be held liable if its own conduct—not a third party’s—violates 18 U.S.C. § 1591.” App. 10a. This revision of Section 230(e)(5)(A) gives website defendants, like Reddit, immunity from the TVPRA’s civil remedies when other defendants would have none. But Congress “does not alter the fundamental details of a regulatory scheme in vague terms or ancillary provisions.” *Whitman v. American Trucking Assns., Inc.*, 531 U.S. 457, 468 (2001). The TVPRA and FOSTA are part of a broad remedial statutory scheme designed to address the complex social problem of sex trafficking. If Congress intended FOSTA to carve out some, but not all, Section 1595 beneficiary claims involving sex trafficking violations, it would have said so plainly. It would have said Section 230 does not “impair or limit—any claim in a civil action brought under section 1595” if the *defendant’s own conduct* “underlying the claim constitutes a violation of section 1591.”

The Ninth Circuit's reading effectively eliminates victims' civil remedies against the actors who have the most to gain from the proliferation of online child sex trafficking.

B. The Ninth Circuit's Interpretation of Section 230(e)(5)(A) Is Clearly Incorrect

The Ninth Circuit's reading misconstrues the statute's plain text. Section 230(e)(5)(A) provides that "any claim in a civil action brought under section 1595 of title 18" is not subject to immunity under Section 230(c)(1) provided that "the conduct underlying the claim constitutes a violation of section 1591 of that title." The Court of Appeals' decision focused on the word "underlying" and held the provision applies only if the *defendant's conduct* underlying the claim amounts to a violation of Section 1591. This conclusion "read[s] an absent word into the statute" which court should not do with "a plain, nonabsurd meaning in view." *Lamie v. U.S. Tr.*, 540 U.S. 526, 538 (2004) (cleaned up).

If Congress had intended to limit the statutory exception in Section 230(e)(5)(A) to only claims where the "defendant's conduct" itself violated Section 1591, it knew how to and would have said so. *Whitman*, 531 U.S. at 468 (Congress "does not, one might say, hide elephants in mouseholes."). On the contrary, Congress used broad language: Section 230 states "*nothing*" "shall be construed to impair or limit . . . *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." 47 U.S.C. § 230(e)(5)(A) (emphasis added). The use of "the conduct underlying the claim" is easily explicable and has nothing to do with whether the defendant's conduct itself, or that of a co-venturer, violated Section

1591. Under Section 1595(a), a civil cause of action exists for victims of peonage, forced labor, involuntary servitude, and labor trafficking in violation of Sections 1581, 1584, 1589, 1590, and 1592 of Title 18. So the language “conduct underlying the claim” in Section 230(e)(5)(A) limits the provision to human trafficking victims under Section 1591—and not as to other sections of Title 18.

In reaching its conclusion that the defendant’s own conduct must violate Section 1591, the Ninth Circuit relied on *OBB Personenverkehr AG v. Sachs*, 577 U.S. 27 (2015), which involved a different statute with a different provision that does not even use the word “underlying.” *Sachs* considered the commercial activity exception to the Foreign Sovereign Immunities Act (FSIA), which abrogates a foreign state’s sovereign immunity for claims “based upon a commercial activity carried on in the United States by [a] foreign state.” *Id.* at 29 (quoting 28 U.S.C. § 1605(a)(2)). The Ninth Circuit reasoned that because “‘underlying and ‘based upon’ are analogous . . . *Sachs*’ interpretation is instructive.” App. 11a. *Sachs* held that, to ascertain the conduct that a claim is “based upon,” courts should identify “those elements . . . that if proven would entitle a plaintiff to relief” and “the gravamen of the complaint.” 577 U.S. at 33–34. In Petitioners’ case, the Ninth Circuit reasoned, “the most important component” of Petitioners’ “sex trafficking beneficiary suit against a defendant-website” is “the *defendant-website*’s own conduct—its ‘participation.’” App. 11a (emphasis in original). Therefore, the Court of Appeals concluded, it is the defendant-website’s “participation in a venture” that must be the “conduct underlying the claim that constitutes a violation of section 1591.” *Id.*

The Court of Appeals overread the “gravamen” inquiry in *Sachs*. If *Sachs* is relevant, it is for a simple reason: “a single element of a claim is insufficient” to establish the “gravamen” of the complaint. *Sachs*, 577 U.S. at 34. One element of Petitioners’ Section 1595(a) claim is Reddit’s “participation in a venture.” To conclude that single element is the “gravamen” of Petitioners’ suit ignores the importance of the “venture” constituting a Section 1591 violation. If Petitioners alleged Reddit “participated in a venture” that violated another section of Title 18 (such as forced labor), Section 230(e)(5)(A) would not apply. And even if Petitioners had to prove a website defendant’s conduct rises to the standard of a criminal beneficiary claim under Section 1591(a)(2), there must still be a Section 1591(a)(1) violation—*i.e.*, the conduct (“recruit[ing], “entic[ing],” harbor[ing],” *inter alia*) that amounts to sex trafficking. A complaint against a website without the predicate Section 1591(a)(1) crime would fall outside Section 230(e)(5)(A). The gravamen of Petitioners’ suit is the sex-trafficking violation.

The Court of Appeals’ reliance on *Sachs* was misplaced for an additional reason. *Sachs* concerned the scope of an entirely different statute—the FSIA—which used different language and specified the actor whose conduct is at issue. The FSIA commercial activity exception considers the conduct of the “foreign state” carrying on the commercial activity forming the basis of the claim. *Sachs*, 577 U.S. at 29. The absence of language found in Section 230(e)(5)(A) specifying whose conduct the claim must be based upon supports reading “conduct underlying the claim” to encompass third-party conduct (such as in a beneficiary claim). By contrast, Congress specified the relevant actor’s conduct when amending other sections of the TVPRA through FOSTA. Section 1595(d) was enacted as part

of FOSTA and allows state attorneys general to bring *parens patriae* civil actions against “*any person who violates* section 1591.” Pub. L. No. 115-164 §§ 4, 6, 132 Stat. 1253 (Apr. 11, 2018) (emphasis added). Section 1595(d) demonstrates that Congress knew how to provide the limitation that the Court of Appeals read into Section 230(e)(5)(A). “Where Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion.” *Mississippi ex rel. Hood v. AU Optronics Corp.*, 571 U.S. 161, 169 (2014) (quoting *Dean v. United States*, 556 U.S. 568, 573 (2009)) (cleaned up). Unlike in a *parens patriae* action, which must be brought against the “person” who violates Section 1591, Section 230(e)(5)(A) provides an exception to immunity where the “conduct underlying the claim” (*i.e.*, including the conduct of the trafficker underlying the Section 1595(a) beneficiary claim) “constitutes a violation of section 1591.”

The majority opinion went on to discuss the legislative history of FOSTA’s enactment. The majority opinion considered statements from FOSTA’s sponsor, supporters, and opponents to conclude Section 230(e)(5)(A) eliminated the liability bar in Section 230(c)(1) only if the website defendant acted with criminal *mens rea*. App. 13a–16a. Judge Nelson’s partial concurrence declined to join this section. App. 20a. “[S]tatements by individual legislators rank among the least illuminating forms of legislative history.” *N.L.R.B. v. SW Gen., Inc.*, 580 U.S.C. 288, 307 (2017). FOSTA’s congressional history illustrates that point. The Ninth Circuit majority opinion cited Representative Ann Wagner’s statement that the enacted version of Section 230I(5)(A) “‘narrowed’ the immunity exception

and that ‘the “knowingly” mens rea standard would not provide operational recourse to justice for victims across the country and thus may not actually prevent future victimization.’” App. 15a–16a (cleaned up). But Representative Wagner made that statement on November 30, 2017—before the language in Section 230(e)(5)(A) was proposed to Congress on January 10, 2018.⁷ These excerpts from the congressional record fail to overcome Section 230(e)(5)(A)’s plain text. “When the express terms of a statute give us one answer and extratextual considerations suggest another, it’s no contest. Only the written word is the law, and all persons are entitled to its benefit.” *Bostock*, 140 S. Ct. at 1737; *see also Oncale v. Sundowner Offshore Servs., Inc.*, 523 U.S. 75, 79 (1998) (“[I]t is ultimately the provisions of our laws rather than the principal concerns of our legislators by which we are governed.”).

C. There Is a Clear and Intractable Conflict Over Methods of Statutory Interpretation Concerning Section 230(e)(5)(A)

The Ninth Circuit’s decision cements lower courts’ misplaced reliance on legislative history to interpret Section 230(e)(5)(A).

District courts are divided in adopting a natural, plain text reading of the statute or relying on legislative history to construe the text. In two cases, district courts considered the statute’s plain language and concluded “the more natural reading of the second phrase of Section 230(e)(5)(A) is simply that it creates an exemption to Section 230 immunity for civil sex trafficking claims under Section 1591 and *not* as to

⁷ Compare *Hearing Before the Subcomm. on Comms. and Tech.*, 115 Cong. 12 n.7 (2017) (statement of Representative Ann Wagner) with S. Rep. No. 115-199, at 4 (2018).

other sections of Title 18 that can give rise to civil liability under Section 1595.” *Doe v. Twitter, Inc.*, 555 F. Supp. 3d 889, 920–21 (N.D. Cal. 2021) (emphasis in original); *Doe v. MindGeek USA Inc.*, 574 F. Supp. 3d 760, 773 (C.D. Cal. 2021) (“[T]he Court finds nothing within the statute’s text and structure to suggest anything other than the plainest interpretation of the provision, which is that as long as the conduct underlying Plaintiffs’ Section 1595 claim amounts to a violation of Section 1591, then she may bring the claim alleging the lesser constructive knowledge standard.”).

Other District Court decisions have overlooked the plain text. *See Doe v. Kik Interactive, Inc.*, 482 F. Supp. 3d 1242, 1251 (S.D. Fla. 2020) (failing to consider “nothing” in Section 230 shall limit “any claim” under Section 1595); *M.L. v. craigslist Inc.*, 2020 WL 5494903, at *4 (W.D. Wash. Sept. 11, 2020) (same). In one case, the district court recognized “there arguably is some tension” with reading Section 230(e)(5)(A) to require civil plaintiffs to plead criminal *mens rea* under Section 1591(a)(2) and “the constructive knowledge standard set out in Section 1595,” but held that the criminal standard applied anyway. *J. B. v. G6 Hosp., LLC*, 2021 WL 4079207, at *7 (N.D. Cal. Sept. 8, 2021). In an attempt to resolve the tension, the district court devoted the bulk of its opinion to deciphering statements from individual legislators. *Id.* at *7-12. Other courts then adopted this analysis. *See, e.g., A.M. v. Omegle.com, LLC*, 2022 WL 2713721, at *6-7 (D. Or. July 13, 2022); *L.H. v. Marriott Int’l, Inc.*, 2022 WL 1619637, at *11 (S.D. Fla. May 23, 2022); *G.G. v. Salesforce.com, Inc.*, 2022 WL 1541408, at *10 (N.D. Ill. May 16, 2022). These courts relied on legislative history to back into their favored reading of Section 230(e)(5)(A) that the *defendant’s* conduct must violate Section 1591. But courts cannot “rescue Congress from

its drafting errors” “to provide for what [they] think is the preferred result.” *Lamie*, 540 U.S. at 542. When the plain statutory text does not lead to absurd results, courts should abide by the unambiguous text.

The wide disconnect among district courts’ methods of statutory interpretation underscores the likelihood that courts will continue to disagree on the correct interpretation of Section 230(e)(5)(A) and demonstrates the need for this Court’s intervention.

II. The Court’s Forthcoming Decision in *Gonzalez* Will Impact Petitioners’ Case and at the Very Least the Petition Should Be Held for *Gonzalez*

The predicate assumption underlying Petitioners’ case is that absent an exception, Section 230(c)(1) bars Petitioners’ claims under Ninth Circuit precedent such as *Gonzalez v. Google LLC*, 2 F.4th 871 (9th Cir. 2021) and *Dyroff v. Ultimate Software Group, Inc.*, 934 F.3d 1093 (9th Cir. 2019). This Court’s forthcoming decision in *Gonzalez v. Google LLC*, No. 21-1333 could alter that assumption. Accordingly, in the alternative, Petitioners ask the Court to hold this case pending the Court’s disposition of the question presented in *Gonzalez* and then grant certiorari, vacate the judgment below, and remand the case (GVR) for reconsideration in light of that decision.⁸

⁸ Petitioners are entitled to the retroactive application of any legal standard announced in *Gonzalez v. Google LLC*, No. 21-1333 notwithstanding that they did not appeal the District Court’s holding that Petitioners’ claims treat Reddit as a publisher or speaker of information provided by third-party content providers and were barred by Section 230(c)(1). As Justice Kagan has observed, the failure to raise an argument “based on an intervening Supreme Court decision . . . reflects not a lack of

This Court has “the power to issue a GVR order” and “such an order is an appropriate exercise of [the Court’s] discretionary certiorari jurisdiction.” *Lawrence v. Chater*, 516 U.S. 163, 166 (1996). “Where intervening developments, or recent developments that [the Court has] reason to believe the court below did not fully consider, reveal a reasonable probability that the decision below rests upon a premise that the lower court would reject if given the opportunity for further consideration, and where it appears that such a redetermination may determine the ultimate outcome of the litigation, a GVR order is . . . potentially appropriate.” *Id.* A GVR order “guarantees to the petitioner full and fair consideration of his rights in light of all pertinent considerations” and “both promotes fairness and respects the dignity of the Court of Appeals by enabling it to consider potentially relevant decisions and arguments that were not previously before it.” *Stutson v. United States*, 516 U.S. 193, 197 (1996). “As a practical matter” the Court “cannot hear each case pending on direct review and apply the new rule,” but can fulfill its “judicial responsibility by instructing the lower courts to apply the new rule retroactively to cases not yet final.” *Griffith v. Kentucky*, 479 U.S. 314, 323 (1987). This is the equitable purpose of a GVR order.

Congress enacted Section 230 in 1996, and in the following 27 years this Court has not had an opportunity to weigh in on the broad immunity conferred on

diligence, but merely a want of clairvoyance.” *Joseph v. United States*, 574 U.S. 1038, 1038 (2014) (statement respecting denial of certiorari). “[I]nsisting on preservation” of issues “that are squarely foreclosed by circuit and even Supreme Court precedent on the off chance that a new decision will make them suddenly viable” would lead to unjust results. *Id.* (cleaned up).

websites through Section 230(c)(1). *Gonzalez* changes that. For the first time, the Court will consider whether Section 230(c)(1) bars claims based on a website defendant's conduct that goes beyond publishing third-party content. Petitioners' case falls squarely within *Gonzalez*'s purview because Petitioners allege Reddit's actions far exceed the functions of a neutral publisher. Petitioners allege Reddit knowingly hosts child pornography on its website, imposes obstacles for users to report child pornography, and allows traffickers themselves to moderate community subreddits containing child pornography—all because child pornography drives user traffic and thereby enables Reddit to earn significant advertising revenue. The Court's forthcoming decision on the scope of Section 230(c)(1) immunity creates "a reasonable probability" that the Ninth Circuit's decision "rests upon a premise that the lower court would reject if given the opportunity for further consideration." *Lawrence*, 516 U.S. at 166. Under the principles governing GVR orders, Petitioners are entitled to the retroactive application of any legal standard announced in *Gonzalez*.

CONCLUSION

The petition for writ of certiorari respectfully should be granted or, in the alternative, the petition for writ of certiorari respectfully should be held pending the Court's disposition of the question presented in *Gonzalez* and then a GVR order should issue.

Respectfully submitted,

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January 23, 2023

APPENDIX

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APPENDIX A

FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 21-56293

D.C. No. 8:21-cv-00768-JVS-KES

JANE DOES, No. 1-6; JOHN DOES, No. 2, 3, and 5,
on behalf of themselves and all others similarly
situated,

Plaintiffs-Appellants,

v.

REDDIT, INC.,

Defendant-Appellee.

Appeal from the United States District Court
for the Central District of California
James V. Selna, District Judge, Presiding

Argued and Submitted August 29, 2022
Pasadena, California

BEFORE: MILAN D. SMITH, JR. and RYAN D.
NELSON, CIRCUIT JUDGES, and GERSHWIN A.
DRAIN,* DISTRICT JUDGE.

* The Honorable Gershwin A. Drain, United States District
Judge for the Eastern District of Michigan, sitting by designation.

Opinion by Judge Milan D. Smith, Jr.;
Partial Concurrence by Judge R. Nelson

OPINION

SUMMARY**

Communications Decency Act

Affirming the district court’s dismissal of an action under the federal civil sex trafficking statute, 18 U.S.C. § 1595, the panel held that § 230 of the Communications Decency Act, 47 U.S.C. § 230(c)(1), shielded defendant Reddit, Inc., from liability.

Users of Reddit, a social media platform, posted and circulated sexually explicit images and videos of minors online. The victims, or their parents, sued Reddit pursuant to § 1595, the Trafficking Victims Protection Reauthorization Act.

The panel held that Reddit, an “interactive computer services” provider, generally enjoys immunity from liability for user-posted content under § 230(c)(1). However, pursuant to the Allow States and Victims to Fight Online Sex Trafficking Act of 2018 (“FOSTA”), § 230 immunity does not apply to child sex trafficking claims if the conduct underlying the claim also violates

** This summary constitutes no part of the opinion of the court. It has been prepared by court staff for the convenience of the reader.

18 U.S.C. § 1591, the criminal child sex trafficking statute.

In Section II.A of its opinion, the panel held that the plain text of FOSTA, as well as precedent interpreting a similar immunity exception under the Foreign Sovereign Immunities Act, established that the availability of FOSTA's immunity exception is contingent upon a plaintiff proving that a defendant-website's own conduct—rather than its users' conduct—resulted in a violation of 18 U.S.C. § 1591. In Section II.B, the panel held that FOSTA's wider statutory context confirmed its reading. In Section II.C, the panel held that its reading was also supported by the legislative history of FOSTA.

The panel concluded that plaintiffs did not allege that Reddit knowingly participated in or benefitted from a sex trafficking venture, and they therefore failed to state a sex trafficking claim.

Concurring in part, Judge R. Nelson joined the majority opinion except those portions of Section II.C. that discussed the legislative history of FOSTA. Judge R. Nelson wrote that the panel need not and should not consider the legislative history since FOSTA's text was clear.

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M. SMITH, Circuit Judge:

Users of the social media platform Reddit posted and circulated sexually explicit images and videos of minors online. In response, the victims, or their parents, sued Reddit pursuant to 18 U.S.C. § 1595. The district court dismissed the claim, holding that section 230 of the Communications Decency Act (CDA), 47 U.S.C. § 230(c)(1), shielded Reddit from liability.

Because Reddit is an “interactive computer services” provider, it generally enjoys immunity from liability for user-posted content under § 230(c)(1), or “section 230 immunity.” However, pursuant to the Allow States and Victims to Fight Online Sex Trafficking Act of 2018 (FOSTA), section 230 immunity does not apply to child sex trafficking claims—*if* the “conduct underlying the claim” also violates 18 U.S.C. § 1591, the criminal child sex trafficking statute. 47 U.S.C. § 230(e)(5)(A). The dispute in this case is whether the

availability of FOSTA’s immunity exception is contingent upon a plaintiff proving that a defendant website’s own conduct—rather than its users’ conduct—resulted in a violation of 18 U.S.C. § 1591. We hold that it does, and we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Reddit is a social media platform that allows users to publicly post content. It is organized by small, searchable forums devoted to specific topics, called subreddits. Reddit users create and moderate each subreddit, dictating the type of content users can post. In turn, Reddit employees can remove moderators, content, or entire subreddits that do not conform to Reddit policies.

The plaintiffs in this case are the parents of minors, and one former minor, who have had sexually explicit images and videos of them posted to Reddit. Each plaintiff tells a similar story: after discovering explicit images or videos of their children (or themselves) posted to one or more subreddits, they immediately reported the content to the subreddit moderators and to Reddit employees. In response, Reddit sometimes—though not always—removed the content, only for it to be reposted shortly afterward. This cycle repeated again and again across different subreddits. Collectively, the plaintiffs contacted Reddit hundreds of times to report the explicit posts.

The plaintiffs allege that the presence of child pornography on Reddit is blatant, but Reddit has done little to remove the unlawful content or prevent it from being posted, because it drives user traffic and revenue. As of April 2021, when this suit was filed, Reddit hosted many subreddits that openly and explicitly marketed themselves as fora for child pornography,

with names like /r/BestofYoungNSFW, r/teensdirtie, /r/TeenBeauties, and /r/YoungGirlsGoneWild. Users publicly “trade” and solicit child pornography on these pages, and advocacy groups and the press have repeatedly reported this activity to Reddit.

Plaintiffs allege that Reddit earns substantial advertising revenue from subreddits that feature child pornography because they generate controversy and attract viewers. Indeed, third-party advertising tools have listed several subreddits dedicated to child pornography as some of the most popular pages on the platform, which encourages advertisers to buy ad space on those pages. As such, the plaintiffs contend that Reddit financially benefits from openly hosting child pornography.

The plaintiffs further contend that, because it enjoys the revenue generated by child pornography, Reddit has taken little action to block it from the platform. The plaintiffs allege that Reddit does not adequately train its moderators to screen and remove unlawful content and that some moderators post child pornography themselves. Moreover, Reddit has not implemented basic security measures, such as age verification or IP-address tracking to ban repeat offenders, and it delayed adoption of automated image-recognition technologies like “PhotoDNA,” which can detect child pornography and prevent it from being posted.

Based on the foregoing, the plaintiffs filed a class-action lawsuit against Reddit pursuant to the federal civil sex trafficking statute, 18 U.S.C. § 1595, claiming that Reddit is liable as a beneficiary of child sex trafficking, among other causes of action. Reddit filed a motion to dismiss for failure to state a claim, which the district court granted. The district court held that, to avoid section 230 immunity under FOSTA, the

plaintiffs were required to plead that Reddit's own conduct violated the criminal sex trafficking statute, 18 U.S.C. § 1591, and they failed to do so. Plaintiffs now appeal.

JURISDICTION AND STANDARD OF REVIEW

We have jurisdiction pursuant to 28 U.S.C. § 1291. We review a decision on a motion to dismiss for failure to state a claim *de novo*. *Gonzalez v. Google LLC*, 2 F.4th 871, 885 (9th Cir. 2021). We take the allegations in the complaint as true and view them in the light most favorable to the plaintiffs. *Id.*

ANALYSIS

I

At issue in this appeal is the scope of FOSTA's exception to section 230 immunity for civil child sex trafficking claims. The answer to the question involves several interrelated statutory provisions. To begin, pursuant to 47 U.S.C. § 230(c)(1), "[n]o 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." In general, this provision "immunizes providers of interactive computer services against liability arising from content created by third parties." *Fair Hous. Council of San Fernando Valley v. Roommates.Com, LLC*, 521 F.3d 1157, 1162 (9th Cir. 2008) (en banc) (cleaned up). In other words, it "protects websites from liability for material posted on the website by someone else." *Doe v. Internet Brands, Inc.*, 824 F.3d 846, 850 (9th Cir. 2016). This protection is "robust." *Carafano v. Metrosplash.com, Inc.*, 339 F.3d 1119, 1123 (9th Cir. 2003).

In 2018, Congress amended section 230 by passing FOSTA. Pub. L. No. 115-164, 132 Stat. 1253. Among

other things, FOSTA provides that section 230 immunity does not apply to certain sex trafficking claims. Pursuant to 47 U.S.C. § 230(e)(5)(A), “[n]othing in [section 230] . . . shall be construed to impair or limit . . . 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.”

In turn, this provision of FOSTA incorporates two sections of the Trafficking Victims Protection Reauthorization Act (TVPRA), 18 U.S.C. § 1589 *et seq.* First, section 1595 of the TVPRA provides a civil cause of action for violations of the federal trafficking laws. 18 U.S.C. § 1595(a). It permits trafficking victims to sue the perpetrators of their trafficking as well as anyone who “knowingly benefits . . . from participation in a venture which that person knew or should have known” was engaged in sex trafficking. *Id.*

Section 1591, on the other hand, is the federal criminal child sex trafficking statute. Like section 1595, section 1591 covers both perpetrators and beneficiaries of trafficking. *Id.* § 1591(a). However, the standard for beneficiary liability pursuant to section 1591 is higher: to be held criminally liable as a beneficiary, a defendant must have actual knowledge of the trafficking and must “assist[], support[], or facilitat[e]” the trafficking venture. *Id.* § 1591(e)(4).

In sum: websites are generally immune from liability for user-posted content, but that immunity does not cover civil child sex trafficking claims *if* the “conduct underlying the claim” violates 18 U.S.C. §1591.

II

Both parties agree that section 230 immunity applies to the claims against Reddit. Reddit is an

“interactive computer service” provider as defined in § 230(f)(2) and the plaintiffs’ claims treat Reddit “as the publisher or speaker” of “information provided by another information content provider.” 18 U.S.C. § 230(c)(1). Accordingly, the parties focus their arguments on whether plaintiffs’ claims benefit from FOSTA’s exception.

The parties dispute whose conduct must have violated 18 U.S.C. §1591 for a website to be held liable in a civil trafficking suit. Reddit argues that a website may only be liable for its own criminal conduct. Plaintiffs argue that a website may be liable as a beneficiary when *someone’s* conduct (likely a user’s conduct) violated the criminal statute and the claim against the website derives from that violation. District courts in our circuit are split on the issue. Compare *J. B. v. G6 Hosp., LLC*, No. 19-CV-07848-HSG, 2021 WL 4079207, at *6 (N.D. Cal. Sept. 8, 2021) (holding defendant’s own conduct must violate criminal statute), *M. L. v. Craigslist Inc.*, No. C19-6153 BHS-TLF, 2020 WL 5494903, at *4 (W.D. Wash. Sept. 11, 2020), and *A.M. v. Omegle.com, LLC*, No. 3:21-CV-01674-MO, 2022 WL 2713721, at *7 (D. Or. July 13, 2022), with *Doe v. Twitter, Inc.*, 555 F. Supp. 3d 889, 921 (N.D. Cal. 2021) (holding that the remedial purpose of FOSTA supports a liberal construction of the immunity exception), and *Doe v. Mindgeek USA Inc.*, 574 F. Supp. 3d 760, 773–74 (C.D. Cal. 2021). We have not had the opportunity to address the issue until now. We hold that for a plaintiff to invoke FOSTA’s immunity exception, she must plausibly allege that the website’s own conduct violated section 1591.

A

Both parties to the appeal claim that the text of FOSTA is unambiguous. Thus, we must first “deter-

mine whether the language is clear and unambiguous, and if so, apply it as written.” *Thrifty Oil Co. v. Bank of Am. Nat. Tr. & Sav. Ass’n*, 322 F.3d 1039, 1057 (9th Cir. 2003). Accordingly, we commence our analysis by considering the plain text of the statute. *Ross v. Blake*, 578 U.S. 632, 638 (2016). Doing so, we conclude that the plain text of FOSTA and precedent interpreting a similar immunity exception establishes that a website can only be held liable if its own conduct—not a third party’s—violates 18 U.S.C. §1591.

Section 230(e)(5)(A) reads as follows: “[n]othing in [section 230] shall be construed to impair or limit [] 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. . . .”¹ 47 U.S.C. § 230(e)(5)(A) (emphasis added). The Supreme Court interpreted analogous language in a similar context in *OBB Personenverkehr AG v. Sachs*, 577 U.S. 27 (2015). There, the Court considered the commercial activity exception to the Foreign Sovereign Immunities Act, which removes foreign states’ sovereign immunity in any action “*based upon* a commercial activity carried on in the United States.” *Id.* at 29 (quoting 28 U.S.C. § 1605(a)(2)) (emphasis added). *Sachs* held that, to ascertain the conduct that a claim is “based upon,” courts should identify “those elements [of a claim] that, if proven, would entitle a plaintiff to relief” and “the gravamen of the complaint.” *Id.* at 33 (quoting *Saudi Arabia v. Nelson*, 507 U.S. 349, 357 (1993)). In

¹ The parties agree that “the claim,” as used in “the conduct underlying the claim” refers to the “claim in a civil action brought under section 1595.” We agree, given the proximate uses of “claim” in the sentence, coupled with the definite article “the.” See *Niz-Chavez v. Garland*, 141 S. Ct. 1474, 1483 (2021) (the use of a definite article with a singular noun speaks to a “discrete thing”).

that case, the plaintiff sued an Austrian railway after she was injured in an accident that occurred in Austria, but she purchased her rail ticket in Massachusetts. *Id.* at 29–30. Because the gravamen of her claim—the accident and her injuries—occurred abroad, her claim was not “based upon” domestic activity, and the exception did not apply. *Id.* at 35.

We agree with Reddit that “underlying” and “based upon” are analogous, so *Sachs*’ interpretation is instructive. See *Underlying*, Merriam-Webster’s Collegiate Dictionary (11th ed. 2020) (“underlying” means “basic” or “foundational”). Granted, the “gravamen” inquiry in *Sachs* was fact-bound: the Court considered the totality of plaintiff’s allegations and identified those most central to her lawsuit. *Id.* at 35–36. In contrast, this appeal requires us to make a binary determination as a matter of law. But the basic thrust of *Sachs*—that a claim is “based upon” its most important components, or in other words, the facts “underlying” a claim are those most important to proving the claim—is commonsense, and has logical import here.

In a sex trafficking beneficiary suit *against a defendant-website*, the most important component is the *defendant-website’s* own conduct—its “participation in the venture.” See 18 U.S.C. § 1595(a) (authorizing lawsuits against those who “benefit[] . . . from participation in a [trafficking] venture”). A complaint against a website that merely alleges trafficking by the website’s users—without the participation of the website—would not survive. Proof that a user committed criminal trafficking may “entitle a plaintiff to relief” in a case against the *user*, but not against the website. *Sachs*, 577 U.S. at 33.

The structure of the plaintiffs’ complaint confirms how central Reddit’s conduct is to their case. Although

the plaintiffs take the position that the conduct “underlying” their claim is the conduct of the Reddit users who posted the offending images and videos, very little of their complaint describes the trafficking conduct itself. Rather, the complaint focuses on the facts critical to Reddit’s liability—the ways that Reddit makes money from permitting child pornography on its platform and Reddit’s responses to reports of that pornography. Because we conclude that the “gravamen” of a section 1595 beneficiary claim is the defendant’s participation in and benefit from the trafficking scheme, we hold that a defendant-website’s own conduct must “underl[ie]” the claim for purposes of 47 U.S.C. § 230(e)(5)(A). As such, a website’s own conduct must violate 18 U.S.C. § 1591 for the immunity exception to apply.

B

To the extent doubt remains about the meaning of section 230(e)(5)(A), FOSTA’s wider statutory context confirms our reading. *See Niz-Chavez*, 141 S. Ct. at 1482 (taking a “wider look at [the] statutory structure” to confirm statutory meaning).

Alongside section 230(e)(5)(A), FOSTA added two other trafficking-related immunity exceptions to the CDA: sections 230(e)(5)(B) and (C). Those provisions permit states to prosecute websites if “*the conduct underlying the charge*” would violate 18 U.S.C. § 1591 or 18 U.S.C. § 2421A, which criminalize the facilitation of child sex trafficking and prostitution, respectively. 47 U.S.C. § 230(e)(5)(B)–(C). Because “identical words and phrases within the same statute should normally be given the same meaning,” we assume that “the conduct underlying” has the same meaning across the three provisions. *Powerex Corp. v. Reliant Energy Servs., Inc.*, 551 U.S. 224, 232 (2007). This is “doubly

appropriate” here, *id.*, because the provisions are adjacent and were enacted simultaneously, *see Lomax v. Ortiz-Marquez*, 140 S. Ct. 1721, 1725 (2020).

Because subsections (B) and (C) authorize criminal prosecutions, there is good reason to think that “the conduct underlying the charge” as used in (B) and (C) refers only to the defendant’s own conduct. Reading criminal statutes, we “presume[] that Congress did not intend to ‘dispense with a conventional mens rea element, which would require that the defendant know the facts that make his conduct illegal.’” *United States v. Collazo*, 984 F.3d 1308, 1324 (9th Cir. 2021) (quoting *Staples v. United States*, 511 U.S. 600, 605 (1994)). Applying this principle here, we presume subsection (B) permits states to prosecute websites for trafficking only if the defendant “knowingly” facilitated trafficking, in violation of 18 U.S.C. § 1591. *See* § 1591(e)(4). And we presume subsection (C) permits states to prosecute websites for promoting or facilitating prostitution only if the website “inten[ded]” to do so, in violation of 18 U.S.C. § 2421A(a). In short, we presume these provisions authorize criminal prosecutions only for a defendant’s own crimes. Because section 230(e)(5)(A) uses the same language, we read it to include the same limitation. *See Powerex*, 551 U.S. at 232. The statutory context reinforces our conclusion that section 230(e)(5)(A) removes section 230 immunity only when a website violates 18 U.S.C. §1591.

C

Although we conclude that the language and structure of the statute resolves its meaning, FOSTA’s original legislative proponents’ understanding about how FOSTA would be interpreted and applied once several amendments had been made to their original legislation decidedly supports Reddit’s interpretation.

In 1996, Congress passed section 230 to promote development of the internet’s “vibrant and competitive free market” and “diversity of political discourse, unique opportunities for cultural development, and myriad avenues for intellectual activity.” Telecommunications Act of 1996, Pub. L. No. 104-104, § 509, 110 Stat. 56, 138 (codified at 47 U.S.C. § 230(a)(3)). But by the 2010s, there was the growing sense that websites like Backpage.com were taking advantage of the immunity afforded by section 230 to facilitate online sex trafficking and promote illegal pornography. 164 Cong. Rec. S1854 (daily ed. Mar. 21, 2018) (statement of Sen. McCaskill). A congressional investigation of Backpage.com revealed that minors were being advertised for sex work on the platform and that Backpage.com participated in the scheme by “affirmatively edit[ing] ads that it kn[ew] [we]re selling children for sex” to avoid having to remove the ads from the platform. *Id.* at S1851 (statement of Sen. Blumenthal).

Although section 230 as originally enacted did not immunize websites like Backpage.com from federal criminal sex trafficking laws, *see* 47 U.S.C. § 230(e)(1), it was unclear whether states could bring analogous prosecutions. Courts were also reluctant to hold websites liable in any civil trafficking suits stemming from user-posts, even if the website participated in the scheme. *See, e.g., Doe No. 1 v. Backpage.com, LLC*, 817 F.3d 12, 23 (1st Cir. 2016).

Congress passed FOSTA in 2018 to address these issues. The purpose of the bill was “to give survivors their day in court . . . [and] open avenues of prosecution to law enforcement where they are currently roadblocked.” 164 Cong. Rec. S1851 (daily ed. March 21, 2018) (statement of Sen. Blumenthal); *see* 164 Cong. Rec. H1291 (daily ed. Feb. 27, 2018) (statement

of Rep. Jackson Lee) (noting that the bill would allow victims to hold accountable “online ad services and websites that facilitate or allow sex trafficking”). As first introduced in the House, FOSTA simply stated that section 230 did not “impair the enforcement of, or limit availability of victim restitution or civil remedies under . . . civil laws relating to sexual exploitation of children or sex trafficking.” H.R. 1865, 115th Cong. § 3 (Apr. 3, 2017). S. 1693, 115th Cong. § 3 (Aug. 1, 2017). This version of FOSTA would have created an immunity exception for all section 1595 claims against websites.

Opponents of the bill, however, were concerned that it would “bring a deluge of frivolous litigation targeting legitimate, law-abiding intermediaries” because it was “unbounded by any actual knowledge” requirement. *The Stop Enabling Sex Traffickers Act of 2017: Hearing on S. 1693 Before the S. Comm. on Com., Sci. & Transp.*, 115th Cong. 35 (2017) (statement of Abigail Slater, General Counsel, Internet Association). These opponents suggested amendments to require “a clear sense of knowing,” as to “not damage those who are truly trying to grow and innovate based on that protection they get from lawsuits.” *Id.* at 53 (statement of Xavier Becerra, Attorney General of Cal.).

In response, the Senate altered the bill to its current form to “eliminate section 230 as a defense for websites that *knowingly* facilitate sex trafficking.” S. Rep. No. 115-199, at 2 (2018) (emphasis added). As reintroduced, the bill’s “knowing standard” was intended to create a “high bar” for liability. *The Stop Enabling Sex Traffickers Act of 2017, Hearing on S. 1693 Before the Comm. on Commerce, Sci., and Transp.*, 115 Cong. 9 (2017). Indeed, Representative Ann Wagner, the House bill’s original sponsor, complained that the new

version so dramatically “narrowed” the immunity exception and that “the ‘knowingly’ mens rea standard . . . w[ould] not provide operational recourse to justice for victims across the country and thus may not actually prevent future victimization.” *The Latest Developments in Combating Online Sex Trafficking: Hearing Before the Subcomm. on Commc’ns & Tech. of the H. Comm. on Energy & Com., 115th Cong. 4 n.7 (2018).*

On this record, it is clear that FOSTA requires that a defendant-website violate the criminal statute by directly sex trafficking or, with actual knowledge, “assisting, supporting, or facilitating” trafficking, for the immunity exception to apply. We agree with Representative Wagner that, as enacted, 47 U.S.C. § 230(e)(5)(A) retains only a limited capacity to accomplish its original goal of allowing trafficking victims to hold websites accountable. However, this is a flaw, or perhaps a feature, that Congress wrote into the statute, and is not one we can rewrite by judicial fiat.

III

Having concluded that 47 U.S.C. § 230(e)(5)(A) requires that a defendantwebsite’s own conduct violate 18 U.S.C. § 1591, we must decide whether the plaintiffs have alleged that Reddit did so in this case. Section 1591 punishes anyone who “knowingly . . . benefits, financially or by receiving anything of value, from participation in a venture which has engaged in [a sex trafficking act], knowing . . . that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act . . .” 18 U.S.C. § 1591(a)(2). “Participation in a venture,” in turn, is defined as “knowingly assisting, supporting, or facilitating” sex trafficking activities. *Id.* § 1591(e)(4).

Accordingly, establishing criminal liability requires that a defendant knowingly benefit from knowingly participating in child sex trafficking.

We agree with the reasoning of other courts to address the issue that, to hold a defendant criminally liable as a beneficiary of sex trafficking, the defendant must have actually “engaged in some aspect of the sex trafficking.” See *United States v. Afyare*, 632 F. App’x 272, 286 (6th Cir. 2016); *Noble v. Weinstein*, 335 F. Supp. 3d 504, 524 (S.D.N.Y. 2018) (a plaintiff must allege some “specific conduct [by the defendant] that furthered the sex trafficking venture . . . undertaken with knowledge” of the venture). To run afoul of § 1591, a defendant must knowingly benefit from and knowingly assist, support, or facilitate sex trafficking activities. Mere association with sex traffickers is insufficient absent some knowing “participation” in the form of assistance, support, or facilitation. See 18 U.S.C. § 1591(e)(4). The statute does not target those that merely “turn a blind eye to the source of their [revenue].” *Afyare*, 632 F. App’x at 286. And knowingly benefitting from participation in such a venture requires actual knowledge and “a causal relationship between affirmative conduct furthering the sex-trafficking venture and receipt of a benefit.” *Geiss v. Weinstein Co. Holdings LLC*, 383 F. Supp. 3d 156, 169 (S.D.N.Y. 2019).

In this case, the plaintiffs have not alleged that Reddit knowingly participated in or benefitted from a sex trafficking venture. They allege that Reddit provides a platform where it is easy to share child pornography, highlights subreddits that feature child pornography to sell advertising on those pages, allows users who share child pornography to serve as subreddit moderators, and fails to remove child pornography

even when users report it, as the plaintiffs did in this case. Together, they say, this amounts to knowing participation in a sex trafficking venture.

Taken as true, these allegations suggest only that Reddit “turned a blind eye” to the unlawful content posted on its platform, not that it actively participated in sex trafficking. *See Afyare*, 632 F. App’x at 286. Moreover, the plaintiffs have not alleged a connection between the child pornography posted on Reddit and the revenue Reddit generates, other than the fact that Reddit makes money from advertising on all popular subreddits. *See Noble*, 335 F. Supp. 3d at 524 (finding insufficient connection between general benefits defendant received from working for individual who perpetrated sex trafficking and the perpetrator’s conduct toward the victim). Plaintiffs who have successfully alleged beneficiary liability for sex trafficking have charged defendants with far more active forms of participation than the plaintiffs allege here. *See, e.g., Canosa v. Ziff*, No. 18 CIV. 4115 (PAE), 2019 WL 498865, at *23–24 (S.D.N.Y. Jan. 28, 2019) (denying motion to dismiss beneficiary liability claims where plaintiffs alleged affiliates of Harvey Weinstein lured victims “through the promise of production deals,” provided Weinstein “medications he required to perform sexual acts,” and “cleaned up after his sexual assaults”). As such, the plaintiffs have failed to state a claim that Reddit violated 18 U.S.C. § 1591.

CONCLUSION

We conclude, based on the law as written by Congress, that civil plaintiffs seeking to overcome section 230 immunity for sex trafficking claims must plead and prove that a defendant-website’s own conduct violated 18 U.S.C. § 1591.

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For claims based on beneficiary liability, this requires that the defendant knowingly benefited from knowingly facilitating sex trafficking. Because the plaintiffs have not plead that Reddit has done so in this case, we AFFIRM.

R. NELSON, Circuit Judge, concurring in part:

I join the majority opinion except those portions of Section II.C that discuss the legislative history of FOSTA. The panel concludes that FOSTA is unambiguous as to whose conduct triggers the exception to Section 230 immunity. “When the statutory language is unambiguous and the statutory scheme is coherent and consistent, our inquiry comes to an end, without any inquiry into legislative history.” *Hooks v. Kitsap Tenant Support Servs., Inc.*, 816 F.3d 550, 562 (9th Cir. 2016). In my view, the discussion of proposed amendments to FOSTA that were eventually enacted supports the panel’s holding that FOSTA’s language is unambiguous. *Cf. BNSF Ry. Co. v. Loos*, 139 S. Ct. 893, 906 (2019) (Gorsuch, J., dissenting) (distinguishing “record of *enacted* changes Congress made to the relevant statutory text” from “unenacted legislative history”). The discussion in Section II.C of statements from FOSTA’s sponsor, supporters, and opponents, by contrast, fall squarely within legislative history that the panel need not and should not consider since FOSTA’s text is clear. Thus, I would conclude our analysis without relying on those statements.

APPENDIX B

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. SACV 21-00768 JVS (KESx)

Date October 7, 2021

Title Jane Doe et al. v. Reddit, Inc.

Present: The Honorable James V. Selna, U.S. District
Court Judge

Deborah Lewman
Deputy Clerk

Not Present
Court Reporter

Attorneys Present for Plaintiffs: Not Present

Attorneys Present for Defendants: Not Present

Proceedings: [IN CHAMBERS] Order Regarding
Motion to Dismiss

Defendant Reddit, Inc. (“Reddit”) filed a motion to dismiss the complaint of Plaintiffs Jane Does Nos. 1-6 and John Does Nos. 2, 3, and 5 (collectively — “Plaintiffs”). Mot., Dkt. No. 40. Plaintiffs filed an opposition. Opp’n, ECF No. 43. Reddit responded. Reply, ECF No. 44.

Plaintiffs filed a request for a hearing. Request, Dkt. No. 55. Reddit opposed the request for hearing. Dkt. No. 57. The Court finds that oral argument would not be helpful in this matter.

For the following reasons, the Court GRANTS the motion.

I. BACKGROUND

This is a class action lawsuit that arises from the posting on Reddit's website sexually explicit videos and images of individuals under the age of 18 — commonly referred to as child sexual exploitation material (“CSEM”). First Amended Complaint (“FAC”), ECF No. 31, ¶ 1. Before addressing Plaintiffs' claims, the Court briefly reviews how Reddit is structured.

Reddit is one of the Internet's most popular websites and is built around users submitting links, pictures, and text that everyone can view and vote on. *Id.* ¶¶ 36-37. Reddit is organized into what are called “Subreddits,” which are online bulletin boards that are focused on particular themes or interests. *Id.* ¶ 38. Subreddits are governed as follows. Reddit allows users to create Subreddits. *Id.* ¶ 44. Each Subreddit is managed by a small group of users, who are given the title of “moderator.” Moderators can dictate what type of content is allowed on the Subreddit, subject to certain overall limitations placed by Reddit. *Id.*

Reddit itself has four teams of employees that engage in content moderation for the company. *Id.* ¶¶ 44-47. “Administrators” have the power to strip moderators of their privileges and ban Subreddits or particular content from Reddit. *Id.* ¶ 44. Administrators are primarily supposed to identify and remove content that violates Reddit's Content Policy, whether on Subreddits or in private messages between users. *Id.* ¶ 44. The Trust & Safety Team focuses on enforcing Reddit's Content Policy against malicious users and when content violations may have urgent legal or safety implications. *Id.* ¶ 45. The Anti-Evil internal security team consists of back-end engineers who create automated software that flags content that violates Reddit's policies. *Id.* ¶ 46. Finally, the Legal

Operations Team removes or disables content that it finds to be in violation of the Digital Millennium Copyright Act. *Id.* ¶ 47.

Jane Doe No. 1 is an individual who is now of the age of majority under United States and California law. *Id.* ¶ 8. An ex-boyfriend of Jane Doe No. 1 posted sexually explicit images and videos of Jane Doe No. 1 from when she was 16 years old on websites, including Reddit, without her consent. *Id.* ¶¶ 143-46. Each time that Jane Doe No. 1 reported the CSEM of herself to Subreddit moderators, it would take days for the CSEM to come down, only for it to reappear within minutes. *Id.* ¶¶ 148-49. When she had her ex-boyfriend's account banned, he was able to make a new account and post the CSEM anew. *Id.* ¶ 151.

Jane Does Nos. 2-6 and John Does Nos. 2, 3, and 5 are the parents of daughters who are below the age of majority under United States and California law. *Id.* ¶¶ 9-13. Each of their daughters has had CSEM images or videos of them posted on Reddit and have had to repeatedly request that various Subreddit moderators and Reddit administrators remove the CSEM, often only to have the CSEM reappear shortly after it is removed. *Id.* ¶¶ 156-229.

Plaintiffs allege that Reddit knowingly facilitates the posting of CSEM and benefits from the CSEM in the form of increased advertising revenue and subscription fees by premium Reddit users. *Id.* ¶¶ 61-65, 75, 119. Plaintiffs allege that Reddit facilitates the posting of CSEM to achieve these benefits in a variety of ways, including (1) allowing the creation of a number of Subreddits that target users seeking CSEM, *id.* ¶ 94; (2) rarely removing CSEM when it is reported by users, *id.* ¶ 82; (3) failure to verify users' age, *id.* ¶ 51; (4) reliance on poorly trained, volunteer moderators to

manage Subreddits, *id.* ¶¶ 106-07, 110; (5) having ineffective and inefficient administrators managing content moderation for Reddit, *id.* ¶¶ 108-09, 112; (6) failing to take steps to prevent banned users from creating new user accounts on the website, *id.* ¶¶ 113-14; (7) failing to report all CSEM to the National Council for Missing and Exploited Children (“NCMEC”), *id.* ¶ 124; and (8) failing to use PhotoDNA, an automated means of identifying images of CSEM previously identified to NCMEC, until 2019, and at that point only using PhotoDNA minimally, *id.* ¶¶ 122-124.

Plaintiffs bring this lawsuit on behalf of one class and two subclasses. The Class is defined as:

all persons who were under the age of 18 when they appeared in a sexually explicit video or image that has been uploaded or otherwise made available for viewing on any website owned or operated by Reddit, Inc. in the last ten years.

Id. ¶ 239. Jane Doe No. 1 seeks to represent the following California subclass:

all persons residing in California who were under the age of 18 when they appeared in a sexually explicit video or image that has been uploaded or otherwise made available for viewing on any website owned or operated by Reddit, Inc. in the last ten years.

Id. ¶ 240. The remaining Plaintiffs seek to represent the following New Jersey subclass:

all persons residing in New Jersey who were under the age of 18 when they appeared in a sexually explicit video or image that has been uploaded or otherwise made available for

viewing on any website owned or operated by
Reddit, Inc. in the last ten years.

Id. ¶ 241.

Plaintiffs filed their Complaint on April 22, 2021. *See generally* Complaint, ECF No. 1. Following the filing of the instant motion and a motion to stay discovery, Plaintiffs filed the FAC. *See generally* FAC. Plaintiffs now bring nine claims for relief: (1) violation of the federal Trafficking Victims Protection Act, 18 U.S.C. §§ 1591, 1595; (2) violation of the duty to report child sexual abuse material under 18 U.S.C. § 2258A; (3) receipt and distribution of child pornography in violation of 18 U.S.C. § 2252A; (4) distribution of private sexually explicit materials in violation of Cal. Civ. Code § 1708.85; (5) violation of California’s Unfair Competition Law (“UCL”), Cal. Bus. & Prof. Code § 17200; (6) violation of California’s Trafficking Victims Protection Act, Cal. Civ. Code § 52.5; (7) violation of New Jersey’s child exploitation laws, N.J. Rev. Stat. § 2A:30B-3; (8) unjust enrichment; and (9) intentional infliction of emotional distress. FAC ¶¶ 248-98. Of these claims, the three claims for violation of California law are brought on behalf of the California subclass while the claim for violation of New Jersey law is brought on behalf of the New Jersey subclass. *Id.* ¶¶ 273-89.

Reddit moved to stay discovery pending resolution of this motion. Stay Mot., ECF No. 25. The Court granted that motion. Order, ECF No. 35.

II. LEGAL STANDARD

Under Rule 12(b)(6), a defendant may move to dismiss for failure to state a claim upon which relief can be granted. A plaintiff must state “enough facts to state a claim to relief that is plausible on its face.” *Bell*

Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007). A claim has “facial plausibility” if the plaintiff pleads facts that “allow[] the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

In resolving a 12(b)(6) motion under *Twombly*, the Court must follow a two-pronged approach. First, the Court must accept all well-pleaded factual allegations as true, but “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.” *Iqbal*, 556 U.S. at 678. Nor must the Court “accept as true a legal conclusion couched as a factual allegation.” *Id.* at 678-80 (quoting *Twombly*, 550 U.S. at 555). Second, assuming the veracity of well-pleaded factual allegations, the Court must “determine whether they plausibly give rise to an entitlement to relief.” *Id.* at 679. This determination is context-specific, requiring the Court to draw on its experience and common sense, but there is no plausibility “where the well-pleaded facts do not permit the court to infer more than the mere possibility of misconduct.” *Id.*

III. DISCUSSION

A. Section 230 Generally

Reddit’s primary argument is that dismissal is appropriate because Plaintiffs’ claims are barred by Section 230 of the Communications Decency Act, 47 U.S.C. § 230. *See* Mot. at 5-18. Under § 230(c)(1), “[n]o provider . . . of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.” In other words, “Section 230(c)(1) precludes liability for (1) a provider or user of an interactive computer service (2) whom a plaintiff seeks to treat as a publisher

or speaker (3) of information provided by another information content provider.” *Gonzalez v. Google LLC*, 2 F.4th 871, 891 (9th Cir. 2021) (internal quotation marks omitted).

The Court concludes that § 230 immunizes Reddit from many of Plaintiffs’ claims.¹ First, Reddit is a provider of an interactive computer service. Under § 230(f)(2), an “interactive computer service” is defined as “any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server” Reddit provides a system that enables computer access by multiple users to a server. *See also Hepp v. Facebook, Inc.*, 465 F. Supp. 3d 491, 498 (E.D. Pa. 2020) (finding that Reddit “falls squarely within” the definition of interactive computer service).

Plaintiffs argue that “the complaint alleges Reddit is responsible in whole or in part, for the creation or development of information.” Opp’n at 18. As a consequence, Plaintiffs contend that Reddit is an “information content provider” and not an “interactive computer service.” Under 47 U.S.C. § 230(f)(3) an “information content provider” is “any person or entity that is responsible, in whole or in part, for the creation

¹ Plaintiffs argue that the Court should not consider whether § 230 bars Plaintiffs’ claims because § 230 provides an affirmative defense to claims. Opp’n at 18 n.9 (citing *Gonzalez*, 2 F.4th at 889; *Lusnak v. Bank of America, N.A.*, 883 F.3d 1185, 1194 n.6 (9th Cir. 2018)). But the Ninth Circuit has held that § 230 can be considered on a motion to dismiss where “the allegations in the complaint suffice to establish the defense.” *Gonzalez*, 2 F.4th at 890 n.8. The Court concludes that such is the case here. The Court does agree with Plaintiffs that if the complaint does contain sufficient factual allegations suggesting that Reddit is not immune under § 230, then the Court cannot dismiss the claims on that basis. *See* Opp’n at 18 n.10. But this is not the case here.

or development of information provided through the Internet or any other interactive computer service.” Under *Fair Housing Council of San Fernando Valley v. Roommates.com, LLC*, 521 F.3d 1157, 1167-68 (9th Cir. 2008), a website is classified as an information content provider if it “materially contributes to [the information’s] unlawfulness.” Cases applying this test “have consistently drawn the line at the ‘crucial distinction between, on the one hand, taking actions (traditional to publishers) that are necessary to the display of unwelcome and actionable content and, on the other hand, responsibility for what makes the displayed content illegal or actionable.” *Kimzey v. Yelp! Inc.*, 836 F.3d 1263, 1269 n.4 (9th Cir. 2016) (quoting *Jones v. Dirty World Entertainment Recordings LLC*, 755 F.3d 398, 413–14 (6th Cir. 2014)) (citing *Nemet Chevrolet, Ltd. v. Consumeraffairs.com, Inc.*, 591 F.3d 250, 257–58 (4th Cir. 2009); *Federal Trade Commission v. Accusearch Inc.*, 570 F.3d 1187, 1197-1201 (10th Cir. 2009)). Thus, “providing neutral tools to carry out what may be unlawful or illicit” is not sufficient to make an entity an “information content provider.” *Fair Housing Council*, 521 F.3d at 1169.

In making their argument, Plaintiffs rely most heavily on *M.L. v. craigslist Inc.*, 2020 WL 5494903, at *4 (W.D. Wash. Sept. 11, 2020). See Opp’n at 19. In that case, the court held that craigslist was an information content provider with respect to sex trafficking advertisements posted to its website. *M.L.*, 2020 WL 5494903 at *3-4. The court so held because (1) trafficking advertisements were posted on craigslist’s website while complying with its rules and guidelines, (2) traffickers paid craigslist to display trafficking advertisements in the “erotic services” section of the website, and (3) traffickers were able to evade law enforcement by making use of craigslist’s anonymous

communications system. *Id.* at *3. These allegations collectively described “specific, concrete actions taken by craigslist that facilitated [the plaintiff’s] trafficking.”² *Id.*

Here, Plaintiffs contend that the FAC alleges that Reddit is an information content provider because of Reddit’s (1) “refusal to enforce its policies,” (2) provision of “karma” awards for subreddits featuring CSEM, (3) pseudonymous, private messaging system that allows evasion of law enforcement, (4) “elevation” of subreddits involving CSEM, and (5) use of “barely-trained moderators who failed to enforce its policies and propagated the spread of” CSEM. Mot. at 19. Before considering this argument, the Court first elaborates on the exact allegations in the FAC. First, the FAC states that Reddit “tries to ban as little content as possible” and so provides a reporting tool that includes “no opportunity for a user to explain to Reddit why the content is child pornography, [leaving] the user . . . to rely on a Reddit administrator or moderator to decide whether to remove the content.” FAC ¶¶ 80, 82. Plaintiffs summarize these allegations as showing Reddit’s “refusal to enforce its policies.” Opp’n at 19. Second, contrary to Plaintiffs’ summary, paragraphs 115 and 116 of the FAC do not include allegations that Reddit took any actions that “elevated” subreddits where users had posted CSEM. Rather, those paragraphs

² Reddit attempts to characterize *M.L.* as holding that a website provider can only become an information content provider if the “website was *designed*” to take the illegal action. Reply at 3 (emphasis in original). But the *M.L.* court does not use the word “designed” in reaching its conclusion. *See generally* 2020 WL 5494903. Also, as noted previously, the test in the Ninth Circuit is whether the website provider being “responsib[le] for what makes the displayed content illegal or actionable.” *Kimzey*, 836 F.3d at 1269 n.4. The Court will look to this test.

allege that those subreddits were often searched for by users and rated highly in user polls. FAC ¶ 115.

The Court is not persuaded that these allegations are sufficient for the Court to find that Reddit is an information content provider. The Court does not believe that the allegations show that Reddit is responsible for the illegal content on its website. Many allegations that Plaintiffs point to do not speak to whether Reddit “materially contributed” to the CSEM because the allegations relate to “neutral tools.” Karma awards, which are an aggregate metric representing how many user votes a user has received,³ and pseudonymous, private messaging apply broadly across Reddit and do not play any special role in the illegality of the CSEM. *See Kimzey*, 836 F.3d at 1270 (holding that “inputs from third parties [that] reduce[] . . . information into a single, aggregate metric . . . is best characterized as the kind of ‘neutral tool[]’ operating on ‘voluntary inputs’ that we determined did not amount to content development or creation”);⁴ *Fields v. Twitter, Inc.*, 217 F. Supp. 3d 1116, 1127-29 (N.D. Cal. 2016) (holding that the provider of a direct messaging service is not a publisher and is therefore immune under § 230). Nor does the Court believe that having a reporting tool without a comment section

³ Karma “reflects how much a user has contributed to the Reddit community by an approximate indication of the total votes a user has earned on their submissions (‘post karma’) and comments (‘comment karma’).” FAC ¶ 41 (citation omitted).

⁴ Plaintiffs’ argument that karma is awarded by Reddit is irrelevant because the amount that users receive is determined by votes the user receives from other users. Opp’n at 20. While Reddit may have created a system for awarding karma, this does not change the fact that it is an aggregate metric. All such metrics must be created by an interactive service provider.

amounts to “materially contributing” to users posting CSEM on its website.

The remaining issue is whether Reddit’s use of community moderators causes Reddit to material contribute to users posting CSEM on its website. First, the Court notes that having community moderators instead of company moderators does not appear to the Court to have any bearing on whether Reddit is responsible for users posting CSEM on its website. In theory, a very highly trained set of committed community moderators could create an effective system for taking down CSEM.

Plaintiffs’ more promising argument is that Reddit’s community moderators are poorly trained, and this means Reddit materially contributes to users posting CSEM on its website. Plaintiffs allege that community moderators are slow, can engage in “seemingly arbitrary behavior,” can have difficulty communicating with Reddit administrators, and may be overruled by Reddit when moderators find that content violates Reddit’s Content Policy. *See* FAC ¶ 108-12. But the Court notes that these allegations do not appear to be specific to Reddit’s treatment of CSEM; rather, the complaints about Reddit’s use of community managers generally relate to handling of content that violates Reddit’s Content Policy. This is a key distinction with *M.L.* In that case, the allegations indicated that craigslist had rules, guidelines, and processes in place for its “erotic services” section by which traffickers could post advertising on craigslist’s website such that they could avoid law enforcement. *M.L.*, 2020 WL 5494903 at *3-4. By contrast, here Reddit does not have a special way of handling CSEM that is particularly permissive relative to other kinds of content. The allegations against Reddit here are not

sufficiently targeted such that there is “responsibility for what makes the displayed content illegal.” *Kimzey*, 836 F.3d at 1269 n.4; *see F.T.C. v. Accusearch*, 570 F.3d 1187, 1199 (10th Cir. 2009) (holding that “a service provider is ‘responsible’ for the development of offensive content only if it in some way specifically encourages development of what is offensive about the content” (emphasis added)).

Plaintiffs also advance a different theory that community moderators who upload CSEM are Reddit’s agents. Opp’n at 19-20. But this argument is unavailing. Plaintiffs analogize this case to *Accusearch*, in which “defendant’s knowledge that third-party ‘researchers were obtaining the information through fraud or other illegality’ that was posted on defendant’s platform indicated its responsibility for developing unlawful content.” Opp’n at 19 (quoting *Accusearch*, 570 F.3d at 1199). But here there is no allegation that Reddit knew that the accused moderators were also posting CSEM. *Cf.* Reply at 7. Plaintiffs then compare the case to *Mavrix Photographs, LLC v. Livejournal, Inc.*, 873 F.3d 1045, 1054 (9th Cir. 2017), in which the Ninth Circuit held that the Court should consider “common law agency principles” when deciding whether to hold a social media platform liable for the actions of moderators. Opp’n at 19-20. This case is inapposite for two reasons. First, *Marvix* related to copyright law, not Section 230, and therefore is not directly relevant to the analysis here. *See generally Marvix*, 873 F.3d 1045. Moreover, in *Marvix* it was alleged that Marvix gave “explicit and varying levels of authority to screen posts,” and this made Marvix an agent for purposes of screening and posting images. *Id.* at 1054. By contrast, there is no allegation that Reddit gave authority to the moderators to post CSEM or that they appeared to be agents of Reddit as they were posting CSEM. *See*

generally FAC. The Court therefore concludes that Reddit is an information service provider that could be covered by § 230.

Returning to the remaining requirements for § 230 immunity, it is readily apparent that several of Plaintiffs' claims seek to treat Reddit as a publisher or speaker of information provided by other content providers. Plaintiffs assert a claim for unjust enrichment because "[b]y permitting users to upload videos and images of Plaintiffs (and/or their daughters) and the Class and profiting from those videos and images, Defendant have [sic] become unjustly enriched at the expense of Plaintiffs and the Class . . ." FAC ¶ 292. The decision to permit users to upload content to a website is a quintessential function of a publisher under § 230. *See Barnes v. Yahoo!, Inc.*, 570 F.3d 1096, 1105 (9th Cir. 2009) ("Subsection (c)(1), by itself, shields from liability all publication decisions, whether to edit, to remove, or to post, with respect to content generated entirely by third parties." (emphasis added)).⁵

⁵ Plaintiffs attempt to distinguish the claim for unjust enrichment relating to advertising revenue as involving functions unrelated to publishing and therefore exempt from § 230 immunity. Opp'n at 21–22. The Court is not persuaded. Plaintiffs rely on *Gonzalez*, 2 F.4th at 897-99. *Id.* But in that case, the Ninth Circuit concluded that § 230 did not immunize Google from the allegation that it illegally provided material support to the terrorist group ISIS by sharing advertising revenue from YouTube with ISIS. *Gonzalez*, 2 F.4th at 898. In so holding, the Ninth Circuit noted that the claim "does not depend on the particular content ISIS places on YouTube; this theory is solely directed to Google's unlawful payments of money to ISIS." *Id.* Here, by contrast, Plaintiffs' claim for unjust enrichment is the only one for which the illegality is the receipt of advertising revenue. That claim is inherently premised on the CSEM appearing near the advertising being improper. The particular

Similarly, Plaintiffs' claim for distribution of private sexually explicit materials stems from users being permitted to upload the relevant videos and images to Reddit. That claim is therefore barred. The same analysis holds true for Plaintiffs' claim for intentional infliction of emotional distress, which is premised on Reddit "knowingly tolerat[ing]" CSEM on its website. FAC ¶ 295. *See Fair Housing Council*, 521 F.3d at 1163 ("Congress sought to immunize the removal of user-generated content . . ."). The Court DISMISSES these claims.

B. Child Pornography Claims

Of course, providers of interactive computer services, like Reddit, do still have obligations for dealing with CSEM. Plaintiffs attempt to sue under the two statutes that provide the most stringent requirements: 18 U.S.C. §§ 2252A and 2258A. Neither, however, can form the basis of a claim that can proceed here. Although Plaintiffs assert a claim against Reddit for failing to report CSEM as required under 18 U.S.C. § 2258A, there is no private cause of action that allows Plaintiffs to assert that claim. *See* 18 U.S.C. § 2255 (providing causes of action for various violations of criminal CSEM statutes but not listing § 2258A).

18 U.S.C. § 2252A makes it illegal to knowingly receive and distribute CSEM. In contrast to § 2258A, § 2252A does provide a private right of action for individuals who are aggrieved by another's knowing receipt and distribution of CSEM. 18 U.S.C. § 2252A(f). But § 230 provides immunity for interactive computer services in civil suits under § 2252A as well. Notably, § 230(e)(1) states that § 230 "shall not be construed to

content on Reddit therefore does matter, and *Gonzalez* is distinguishable.

impair the enforcement of . . . chapter 110 (relating to sexual exploitation of children) of title 18 . . .” Chapter 110 includes § 2252A. But, the Ninth Circuit has held that § 230(e)(1)’s use of the word “enforcement” shows an intent to only exclude criminal enforcement under that chapter, not civil claims. *See Gonzalez*, 2 F.4th at 890 (collecting cases); *see also Doe v. Bates*, 2006 WL 3813758, at *3-4 (E.D. Tex. Dec. 27, 2006) (holding that § 230(e)(1) does not provide an exception permitting civil suit under § 2252A). While the Government could prosecute interactive computer services for knowingly distributing CSEM, they cannot be subject to civil suits under these statutes. The Court therefore DISMISSES the child pornography claims.

C. Trafficking Claims

1. Federal Claim

This brings the Court to the Plaintiffs’ attempt to assert a claim for violation of the federal sex trafficking laws that are exempted from § 230 immunity. In 2018, Congress passed the Allow States and Victims to Fight Online Sex Trafficking Act (“FOSTA”), which added § 230(e)(5). Pub. L. No. 115-164, 132 Stat. 1253. Under § 230(e)(5)(A), § 230 “shall not be construed to impair or limit” “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.” 47 U.S.C. § 230(e)(5)(A). Under § 1595, “[a]n individual who is a victim of a violation of this chapter may bring a civil action against . . . whoever knowingly benefits, financially or by receiving anything of value from participation in a venture which that person knew or should have known has engaged in an act in violation of this chapter” 18 U.S.C. § 1595(a) (emphasis added). Section 1591, in turn, defines “participation in a venture” as “knowingly

assisting, supporting, or facilitating a violation” of subsection (a)(1).” *Id.* § 1591(e)(4).

The parties have substantial disagreement over what is required to state a claim under Section 1595 that is exempt from § 230 immunity. *See* Opp’n at 6-18; Reply at 18-23. The Court agrees with other courts that found that “the most persuasive reading of section 230(e)(5)(A) is that it provides an exemption from immunity for a section 1595 claim if, but only if, the defendant’s conduct amounts to a violation of section 1591.” *J.B. v. G6 Hospitality, LLC*, No. 19-cv-07848-HSG, 2021 WL 4079207 (N.D. Cal. Sept. 8, 2021); *see also Doe v. Kik Interactive, Inc.*, 482 F. Supp. 3d 1242, 1251 (S.D. Fla. 2020); *M.L. v. craigslist Inc.*, 2020 WL 5494903, at *4. Plaintiffs argue that the statutory language does not require the defendant to personally violate section 1591, but instead that the underlying conduct violates section 1591 as opposed to other provisions of chapter 77 of the criminal code. Request at 2. While other courts have adopted that reading, *see Doe v. Twitter, Inc.*, No. 21-cv-00485-JCS, 2021 WL 3675207, at *23-*24 (N.D. Cal. Aug. 19, 2021); *Doe v. Mindgeek USA Inc.*, -- F. Supp. 3d --, 2021 WL 4167054, at *4 (C.D. Cal. Sept. 3, 2021), the Court does not find their reasoning persuasive.

It is more logical to read the statute as requiring the conduct underlying the claim against the defendant to be the same as the claim in the civil action brought under section 1595. The legislative history comports with the Court’s reading of the plain text. *See J.B.*, 2021 WL 4079207, at *7-*11 (reviewing the legislative history and determining that “Congress reached a compromise by including a narrowed federal civil sex trafficking carve-out”). Plaintiffs argue for a broad reading of § 230(e)(5) in light of the remedial nature of

the law. Request at 3. That is not enough, however, to overcome the plain language of the statute, especially given that section 230 as a whole is designed to provide immunity to interactive computer service providers. *See Fair Hous. Council of San Fernando Valley v. Roommates.Com*, 521 F.3d 1157, 1174 (9th Cir. 2008) (“[T]his is an immunity statute we are expounding, a provision enacted to protect websites against the evil of liability for failure to remove offensive content.”). In interpreting the statute in that manner, the Court will apply the “knowingly” standard from section 1591 instead of the more lenient mens rea standard under section 1595 of “known or should have known.”

In the Court’s order granting Reddit’s motion for a stay of discovery pending resolution of this motion, the Court held that it “does not see any indication from the facts alleged that Plaintiffs would be able to state a claim under § 1591.” Order at 8. This was because “courts defining participation under § 1595 have, in the absence of direct association, required a showing of a continuous business relationship between the trafficker and the defendant such that it would appear that the trafficker and the defendant have established a pattern of conduct or could be said to have a tacit agreement.” *Id.* at 7 (quoting *J.B. v. G6 Hospitality, LLC*, 2020 WL 4901196, at *9 (N.D. Cal. Aug. 20, 2020)). The Court found that the allegations in the FAC were insufficient to show a “continuous business relationship.” *Id.*

Plaintiffs now point to other allegations that they allege indicate that Reddit “knowingly fostered a business relationship with sex traffickers to support their trafficking ventures.” Opp’n at 13-14. But there is no indication that there was a “business relationship” with such traffickers. It is true that there can be

a “tacit agreement” that gives rise to participation in a venture. But where Reddit is not accused of having made a business deal with the alleged traffickers – and did not have any monetary relationship with those traffickers – the standard for stating a claim under § 1595 has not be satisfied.⁶

The core of the Court’s analysis from the previous order still holds true. Although Plaintiffs cite to a variety of other paragraphs in the FAC, *see* Opp’n at 13-14 (collecting citations), these allegations can be summarized as stating that Reddit has “affiliations with sex traffickers by enabling the posting of child pornography on its websites” and “making it easier to connect traffickers with those who want to view child pornography.” FAC ¶ 255. But this allegation is not sufficient to show “a continuous business relationship between” Reddit and traffickers. “To conclude otherwise would mean that all web-based communications platforms have a legal duty to inspect every single user-generated message before it is communicated to a single person or displayed to the public, lest such platforms be deemed to have participated in the venture.” *J.B.*, 2020 WL 4901196, at *9. “[T]here is no indication that Congress intended to create such a duty, or that it would be reasonable in light of the

⁶ Plaintiffs argue that a footnote in *J.B.* expands the scope of what constitutes participation in a venture. Opp’n at 13 (citing *J.B.*, 2020 WL 4901196, at *9 n.3). In that footnote, the *J.B.* court stated that it “can envision a circumstance, for example, in which a website operator openly and knowingly makes a deal with sex traffickers to support the venture by posting advertisements featuring trafficked minors in exchange for a cut of the proceeds,” and thereby participated in a sex trafficking venture. *J.B.*, 2020 WL 4901196 at *9 n.3. But that footnote discusses a hypothetical and one in which the defendant received a “cut of the proceeds.” *Id.* The footnote therefore has no bearing on the Court’s analysis.

volume of posts generated by third parties daily.” *Id.* The Court agrees with the *J.B.* court and does not see any indication from the facts alleged that Plaintiffs would be able to state a claim under § 1591.⁷

While other courts have recently found allegations sufficient to support a finding that web-based communication platforms were participating in a venture, those courts were both applying a different legal standard and considering different facts. *See Doe v. Mindgeek*, 2021 WL 4167054, at *5-*6 (Sept. 3, 2021) (finding plaintiffs sufficiently allege participation in a venture where an employee of the defendant reviewed, approved, and uploaded a video of a plaintiff); *Doe v. Twitter*, 2021 WL 3675207, at *23-*24 (N.D. Cal. Aug. 19, 2021) (finding participation in a venture where employees of defendant allegedly refused to take down videos of plaintiff after being notified of a police complaint regarding the images at issue and prior complaints regarding the specific account at issue posting CSEM); *M.L.*, 2020 WL 5494903, at *5-*6 (finding allegations sufficient to support knowing participation in venture where it was alleged that craigslist received advertising fees paid directly by traffickers and developed specific policies requiring the blurring and cropping of images to obscure age and identity of trafficking victims). The allegations cited by Plaintiffs are insufficient to support a finding that Reddit knowingly participated in a venture, as defined by § 1591. *See* Opp’n at 7 n.2. The Court **DISMISSES** Plaintiffs’ federal sex trafficking claim.

⁷ This analysis does not address whether the distribution of CSEM is a form of sex trafficking as contemplated by § 1591(a)(1), an issue which the Court does not reach.

2. *State Claims*

Reddit argues that the state law trafficking claims are barred by Section 230. Mot. at 18. The Court previously found that Section 230 did bar these claims. Order at 8-11. Plaintiffs do not raise any new arguments in response to the Court's previous holding. Opp'n at 22 n.12. The Court therefore DISMISSES Plaintiffs' state law trafficking claims.

D. UCL Claim

Finally, the Court notes that Plaintiffs cannot assert their remaining UCL claim. For an individual to assert a UCL claim, the person must have "suffered injury in fact and . . . lost money or property as a result of the unfair competition." Cal. Bus. & Prof. Code § 17204. But, there is no indication in the FAC that Plaintiffs have lost money or property as a result of Reddit's alleged conduct. The Court DISMISSES this claim.

E. Leave to Amend

Plaintiffs seek leave to amend the allegations of their complaint. Opp'n at 25. "A party may amend its pleading once as a matter of course within: (A) 21 days after serving it, or (B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier." Fed. R. Civ. P. 15(a)(1). In all other cases, a party may amend its pleading only with written consent from the opposing party or the court's leave, which should be "freely give[n] . . . when justice so requires." Fed. R. Civ. P. 15(a)(2); see *Morongo Band of Mission Indians v. Rose*, 893 F.2d 1074, 1079 (9th Cir. 1990) (requiring that policy favoring amendment be applied with "extreme liberality").

In the absence of an “apparent or declared reason,” such as undue delay, bad faith, dilatory motive, repeated failure to cure deficiencies by prior amendments, prejudice to the opposing party, or futility of amendment, it is an abuse of discretion for a district court to refuse to grant leave to amend a complaint. *Foman v. Davis*, 371 U.S. 178, 182 (1962); *Moore v. Kayport Package Express, Inc.*, 885 F.2d 531, 538 (9th Cir. 1989). The consideration of prejudice to the opposing party “carries the greatest weight.” *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1052 (9th Cir. 2003). “Although there is a general rule that parties are allowed to amend their pleadings, it does not extend to cases in which any amendment would be an exercise in futility, or where the amended complaint would also be subject to dismissal.” *Steckman v. Hart Brewing*, 143 F.3d 1293, 1298 (9th Cir. 1998) (internal citations omitted).

Here, the Court does not find that there was undue delay given that Plaintiffs’ complaint has only been amended once. The Court is not convinced that the action was filed in bad faith. The Court is not convinced that most amendments would be futile or that Reddit will be unduly prejudiced. The exception is that the Court has concluded that there is no legal basis for bringing a claim under 18 U.S.C. § 2258A. Therefore, the Court GRANTS Plaintiffs thirty-days’ leave to amend its claims, except as to the § 2258A claim.

IV. CONCLUSION

For the foregoing reasons, the Court GRANTS the motion. The Court finds that oral argument would not be helpful in this matter and VACATES the hearing. Fed. R. Civ. P. 78; L.R. 7-15.

IT IS SO ORDERED.

APPENDIX C

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. SACV 21-00768 JVS (KESx)

Date October 28, 2021

Title Jane Doe et al. v. Reddit, Inc.

Present: The Honorable James V. Selna, U.S. District
Court Judge

Lisa Bredahl
Deputy Clerk

Not Present
Court Reporter

Attorneys Present for Plaintiffs: Not Present

Attorneys Present for Defendants: Not Present

Proceedings: [IN CHAMBERS] Order Regarding
Dismissal of Claims

Defendant Reddit, Inc. (“Reddit”) filed a motion to dismiss the complaint of Plaintiffs Jane Does Nos. 1-6 and John Does Nos. 2, 3, and 5 (collectively — “Plaintiffs”). Dkt. No. 40. On October 7, 2021, the Court granted Reddit’s motion to dismiss, and granted Plaintiffs thirty-days’ leave to amend their claims, except as to the section 2258A claim. Dkt. No. 58, at 15. On October 27, 2021, the Plaintiffs filed a notice of non-amendment and requested that the Court enter an order dismissing the case. Dkt. No. 59.

Accordingly, the Court DISMISSES all claims with prejudice.

IT IS SO ORDERED.

APPENDIX D

United States Code Annotated
Title 47. Telecommunications (Refs & Annos)
Chapter 5. Wire or Radio Communication
(Refs & Annos)
Subchapter II. Common Carriers (Refs & Annos)
Part I. Common Carrier Regulation

47 U.S.C.A. § 230

§ 230. Protection for private blocking and screening of
offensive material

Effective: April 11, 2018

Currentness

(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

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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).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:

- (A)** filter, screen, allow, or disallow content;
- (B)** pick, choose, analyze, or digest content; or

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

APPENDIX E

United States Code Annotated
Title 18. Crimes and Criminal Procedure
(Refs & Annos)

Part I. Crimes (Refs & Annos)

Chapter 77. Peonage, Slavery, and Trafficking in
Persons (Refs & Annos)

18 U.S.C.A. § 1595

§ 1595. Civil remedy

Effective: April 11, 2018

Currentness

(a) An individual who is a victim of a violation of this chapter may bring a civil action against the perpetrator (or whoever knowingly benefits, financially or by receiving anything of value from participation in a venture which that person knew or should have known has engaged in an act in violation of this chapter) in an appropriate district court of the United States and may recover damages and reasonable attorneys fees.

(b)(1) Any civil action filed under subsection (a) shall be stayed during the pendency of any criminal action arising out of the same occurrence in which the claimant is the victim.

(2) In this subsection, a “criminal action” includes investigation and prosecution and is pending until final adjudication in the trial court.

(c) No action may be maintained under subsection (a) unless it is commenced not later than the later of—

(1) 10 years after the cause of action arose; or

(2) 10 years after the victim reaches 18 years of age, if the victim was a minor at the time of the alleged offense.

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(d) In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by any person who violates section 1591, the attorney general of the State, as *parens patriae*, may bring a civil action against such person on behalf of the residents of the State in an appropriate district court of the United States to obtain appropriate relief.

APPENDIX F

United States Code Annotated
Title 18. Crimes and Criminal Procedure
(Refs & Annos)

Part I. Crimes (Refs & Annos)
Chapter 77. Peonage, Slavery, and Trafficking in
Persons (Refs & Annos)

18 U.S.C.A. § 1591

§ 1591. Sex trafficking of children or by force, fraud,
or coercion

Effective: December 21, 2018
Currentness

(a) Whoever knowingly--

(1) in or affecting interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States, recruits, entices, harbors, transports, provides, obtains, advertises, maintains, patronizes, or solicits by any means a person; or

(2) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraph (1),

knowing, or, except where the act constituting the violation of paragraph (1) is advertising, in reckless disregard of the fact, that means of force, threats of force, fraud, coercion described in subsection (e)(2), or any combination of such means will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act, shall be punished as provided in subsection (b).

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(b) The punishment for an offense under subsection (a) is--

(1) if the offense was effected by means of force, threats of force, fraud, or coercion described in subsection (e)(2), or by any combination of such means, or if the person recruited, enticed, harbored, transported, provided, obtained, advertised, patronized, or solicited had not attained the age of 14 years at the time of such offense, by a fine under this title and imprisonment for any term of years not less than 15 or for life; or

(2) if the offense was not so effected, and the person recruited, enticed, harbored, transported, provided, obtained, advertised, patronized, or solicited had attained the age of 14 years but had not attained the age of 18 years at the time of such offense, by a fine under this title and imprisonment for not less than 10 years or for life.

(c) In a prosecution under subsection (a)(1) in which the defendant had a reasonable opportunity to observe the person so recruited, enticed, harbored, transported, provided, obtained, maintained, patronized, or solicited, the Government need not prove that the defendant knew, or recklessly disregarded the fact, that the person had not attained the age of 18 years.

(d) Whoever obstructs, attempts to obstruct, or in any way interferes with or prevents the enforcement of this section, shall be fined under this title, imprisoned for a term not to exceed 25 years, or both.

(e) In this section:

(1) The term “abuse or threatened abuse of law or legal process” means the use or threatened use of a law or legal process, whether administrative, civil,

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or criminal, in any manner or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action.

(2) The term “coercion” means--

(A) threats of serious harm to or physical restraint against any person;

(B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

(C) the abuse or threatened abuse of law or the legal process.

(3) The term “commercial sex act” means any sex act, on account of which anything of value is given to or received by any person.

(4) The term “participation in a venture” means knowingly assisting, supporting, or facilitating a violation of subsection (a)(1).

(5) The term “serious harm” means any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing commercial sexual activity in order to avoid incurring that harm.

(6) The term “venture” means any group of two or more individuals associated in fact, whether or not a legal entity.

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APPENDIX G

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CASE NO. 8:21-CV-00768-JVS-KES

JANE DOES NO. 1-6 AND JOHN DOES NO. 2, 3, AND 5, ON
BEHALF OF THEMSELVES AND ALL OTHERS
SIMILARLY SITUATED,

Plaintiffs,

v.

REDDIT, INC.,

Defendant.

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Attorneys for Plaintiffs

CLASS ACTION

FIRST AMENDED COMPLAINT FOR VIOLATION
OF FEDERAL SEX TRAFFICKING LAWS

JURY TRIAL DEMANDED

NATURE OF THE ACTION

1. Plaintiffs bring this proposed class action for damages and injunctive relief on behalf of themselves, their minor children, and all persons who were under the age of 18 when they appeared in a sexually explicit video or image that has been uploaded or otherwise made available for viewing on any website owned or operated by Defendant in the last ten years.

2. As alleged below, over the course of the last decade, Defendant has knowingly benefited financially from sexually explicit videos and images posted to its website(s) featuring girls and boys who had not yet reached the age of majority. Rather than address this horrifying and pervasive trend, for years, Reddit has taken virtually no action.

3. Prior to 2011, Reddit did not even have a policy banning child pornography. It was only after Reddit came under intense fire for subreddits like /r/jailbait—a prominent subreddit that featured minors engaged in sexual acts—that it begrudgingly instituted a policy banning child pornography from its site.¹ In so doing, the internet giant freely admitted that it was motivated not only by a desire to protect the victims of child pornography, but also by a desire to protect Reddit

¹ https://www.reddit.com/r/blog/comments/pmj7f/a_necessary_change_in_policy/; https://www.reddit.com/r/TheoryOfReddit/comments/58zaho/the_accuracy_of_voat_regarding_reddit_srs_admins/d95aoft/

itself. As the Company wrote: “[W]e’re protecting reddit’s ability to operate by removing this threat.”²

4. However, despite Reddit’s ability to enforce this relatively new policy, and awareness of the continued prevalence of child pornography on its websites, Reddit continues to serve as a safe haven for such content. Reddit claims it is combating child pornography by banning certain subreddits, but only after they gain enough popularity to garner significant media attention.

5. What’s more, Reddit has taken no real action to prevent users from uploading child pornography in the first place. Posting material on Reddit requires no age verification of any kind. A user simply chooses a subreddit to which they intend to post, writes the text of the post, uploads an image and/or video and clicks “post.” The user is not even required to click a checkbox confirming that the post complies with Reddit’s policies. Rather, there is a small note on the site that says: “Please be mindful of reddit’s content policy and practice good reddiquette.”

6. The reason for Defendant’s inaction is simple: greed. Reddit has chosen to prioritize its profits over the safety and welfare of children across the globe, as regulating child pornography means dampening traffic to its site, which is what drives Reddit’s profits via ad sales as well as other mechanisms.

7. Defendant’s decision is not only upsetting, it is illegal. As the Trafficking Victims Protection Reauthorization Act (“TVPRA”) makes clear, it is unlawful

² https://www.reddit.com/r/blog/comments/pmj7f/a_necessary_change_in_policy/; https://www.reddit.com/r/TheoryOfReddit/comments/58zaho/the_accuracy_of_voat_regarding_reddit_srs_admins/d95aoft/

for any person or entity to knowingly (whether because it knew or should have known) benefit financially from sex trafficking, which includes any instance where a person under the age of 18 is caused to engage in a commercial sex act. That is precisely what Defendant has done here—on an incredible scale.

THE PARTIES

8. Plaintiff Jane Doe No. 1 is an individual who is now the age of majority under U.S. and California law. She is a United States citizen who resided within this judicial district at all relevant times alleged herein. She is also a victim of child sex trafficking and child pornography, as alleged herein.

9. Plaintiffs John and Jane Doe No. 2 are the parents of a child who is a minor under U.S. and New Jersey law, and bring this suit on her behalf pursuant to Federal Rule of Civil Procedure 17(c). John and Jane Doe No. 2, and their daughter, are United States citizens who resided in New Jersey at all relevant times alleged herein. John and Jane Doe No. 2's daughter is a victim of child sex trafficking and child pornography, as alleged herein.

10. Plaintiffs John and Jane Doe No. 3 are the parents of a child who is a minor under U.S. and New Jersey law, and bring this suit on her behalf pursuant to Federal Rule of Civil Procedure 17(c). John and Jane Doe No. 3, and their daughter, are United States citizens who resided in New Jersey at all relevant times alleged herein. John and Jane Doe No. 3's daughter is a victim of child sex trafficking and child pornography, as alleged herein.

11. Plaintiff Jane Doe No. 4 is the parent of a child who is a minor under U.S. and New Jersey law, and

brings this suit on her behalf pursuant to Federal Rule of Civil Procedure 17(c). Jane Doe No. 4, and her daughter, are United States citizens who resided in New Jersey at all relevant times alleged herein. Jane Doe No. 4's daughter is a victim of child sex trafficking and child pornography, as alleged herein.

12. Plaintiffs John and Jane Doe No. 5 are the parents of a child who is a minor under U.S. and New Jersey law, and bring this suit on her behalf pursuant to Federal Rule of Civil Procedure 17(c). John and Jane Doe No. 5, and their daughter, are United States citizens who resided in New Jersey at all relevant times alleged herein. John and Jane Doe No. 5's daughter is a victim of child sex trafficking and child pornography, as alleged herein.

13. Plaintiff Jane Doe No. 6 is the parent of a child who is a minor under U.S. and New Jersey law, and bring this suit on her behalf pursuant to Federal Rule of Civil Procedure 17(c). Jane Doe No. 6, and her daughter, are United States citizens who resided in New Jersey at all relevant times alleged herein. Jane Doe No. 6's daughter is a victim of child sex trafficking and child pornography, as alleged herein.

14. Plaintiffs request that this Court permit them to proceed under pseudonyms. If required by the Court, they will seek permission to proceed under these pseudonyms. Plaintiffs' anonymity is necessary to preserve privacy in a matter of sensitive and highly personal nature given that the allegations detailed herein relate to Plaintiffs', and their minor daughters', experiences as victims of child sex trafficking and child pornography, including child pornography that to this day Reddit refuses to remove from its platform. Plaintiffs', and their minor daughters', sensitive and personal experiences were not the result of any

voluntary undertaking on their part, and neither the public, nor the Defendant, will be prejudiced by Plaintiffs' identity remaining private.

15. Defendant Reddit, Inc. is a corporation organized and existing under the laws of the state of Delaware, with an established place of business located at 1455 Market Street, Suite 1600, San Francisco, CA 94103. Upon information and belief, defendant can be served with process by serving its registered agent for service of process in the State of California, Corporation Service Company, d/b/a CSC-Lawyers Incorporating Service, at 2710 Gateway Oaks Drive, Suite 150N, Sacramento, CA 95883.

JURISDICTION AND VENUE

16. This Court has original subject matter jurisdiction pursuant to 28 U.S.C. § 1331.

17. Some of the claims asserted herein arise under 18 U.S.C. § 1595(a). Pursuant to Section 1595(a), "an individual who is a victim of a violation of this chapter" may bring a civil action in "an appropriate district court of the United States and may recover damages and reasonable attorneys fees."

18. The court may properly exercise personal jurisdiction over Defendant. Defendant maintains minimum contacts with this District, such that maintenance of this lawsuit does not offend traditional notions of fair play and substantial justice.

19. Defendant has offices in this State and this District, conducting business directly related to the websites at issue in this case. Specifically, Reddit is a corporation organized and existing under the laws of the state of Delaware, with an established place of

business located at 6022 Wilshire Blvd., Los Angeles, CA 90036.

20. Jurisdiction is further appropriate under 18 U.S.C. §1596, which provides for jurisdiction over any offender, in addition to any “domestic or extra-territorial jurisdiction otherwise provided by law,” where the offender is “present in the United States, irrespective of the nationality of the alleged offender.”

21. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to the claims asserted in this action occurred in the judicial district where this action was brought. Venue is also appropriate in this district because defendant Reddit maintains a place of business in this district.

I. SEX TRAFFICKING AND CHILD PORNOGRAPHY ON THE INTERNET

22. Sex trafficking and the proliferation of child pornography are rapidly growing problems in the United States. Human trafficking is a 150-billion-dollar industry. Out of an estimated 40.3 million victims, 25% are children.³

23. The rise of the Internet and e-commerce has facilitated the rapid growth of the market for child pornography online. The Internet and digital technologies have created new models for sexual exploitation and trafficking, which are hidden and protected by cryptocurrency, laundered money, foreign Internet servers and anonymous messaging applications. The Child Rescue Coalition alone has identified 71 million

³ <https://coil.com/p/RileyQ/Child-Trafficking-What-You-Need-To-Know/mj4WEwhW7>

unique IP addresses worldwide sharing and downloading sexually explicit images and videos of children.⁴

24. The Internet is the number one platform for customers to buy and sell sex with children in the United States. Many sex buyers use the Internet to identify and connect with sellers and victims. Traffickers, in turn, use online networks, social media, websites, and dating tools to disguise their identities while identifying potential victims, which reduces traffickers' chances of being caught by law enforcement.

25. Americans are some of the top consumers and producers of child pornography. According to the U.S. Department of Justice, "Federal law defines child pornography as any visual depiction of sexually explicit conduct involving a minor (persons less than 18 years old)."

26. According to the National Center for Missing & Exploited Children ("NCMEC"), their cyber tip line has received more than 50 million reports of suspected child exploitation from 1998 through 2019, with 18.4 million reports in 2018 alone. The vast majority of these reports contain child sexual exploitation material ("CSEM"), most of which is on the Internet. North America now hosts 37% of child sexual exploitation content and children under the age of 10 now account for 22% of online child porn consumption, while 10-14-year-olds make up 36%.⁵

⁴ *Id.*

⁵ <https://www.prnewswire.com/news-releases/enough-is-enough-calls-on-doj-to-investigate-mindgeek-for-a-trifecta-of-potential-us-law-violations-child-abuse-material-trafficking-videos-and-obscene-content-301196447.html>

27. The link between sexual exploitation and pornographic videos is undeniable. According to an article by Melissa Farley, 49 percent of sexually exploited women say pornographic videos of them were made while they were being sold for sex.⁶

28. Survivors of CSEM are significantly impacted—emotionally, mentally, and physically—as a result of their abuse, and experience continuing and pervasive symptoms such as feelings of shame and humiliation, powerlessness, hopelessness, fear, anger, anxiety, and depression, as well as sleeping disturbances, body image disturbances, self-harm behaviors, eating disorders, and suicidal ideation. According to one study, survivors of CSEM are likely to be re-victimized and to receive blackmail and threats as a result of their initial victimization via CSEM.⁷

II. THE TVPA AND TVPRA

29. In response to the growing problem of sex trafficking, in 2000, Congress passed the Trafficking Victims Protection Act (“TVPA”), which laid the groundwork for the federal response to human trafficking.

30. In 2003, Congress reauthorized the TVPA and passed the Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. No. 108-193, § 4(a)(4)(A), 117 Stat. 2875, 2878 (2003) (“TVPRA”). Under the

⁶ “Renting an Organ for Ten Minutes: What Tricks Tell Us about Prostitution, Pornography and Trafficking,” in *Pornography: Driving the Demand in International Sex Trafficking*, ed. David E. Guinn and Julie DiCaro (Bloomington, IN: Xlibris, 2007), 145.

⁷ https://protectchildren.ca/pdfs/C3P_SurvivorsSurveyFullReport2017.pdf

TVPRA, trafficking victims can sue their traffickers in federal court.

31. In 2008, Congress amended the TVPRA to make it easier for victims of trafficking violations to bring civil suits. First, the civil remedy was expanded to include enterprise liability. It was likewise expanded to include anyone who “knowingly benefits, financially or by receiving anything of value from participation in a venture which that person knew or should have known has engaged in an act in violation of this chapter.” 18 U.S.C. § 1595(a). Second, Congress expanded the statute’s reach to include extraterritorial jurisdiction for certain trafficking offenses. *Id.* The statute of limitations is ten years, or ten years after the victim turned 18 if the victim was a minor. *See id.* § 1595(c).

32. Commercialization of sex acts involving minors is a violation of the TVPRA. Under the TVPRA,

(a) Whoever knowingly—

(1) in or affecting interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States, recruits, entices, harbors, transports, provides, obtains, advertises, maintains, patronizes, or solicits by any means a person; or

(2) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraph (1), knowing, or, except where the act constituting the violation of paragraph (1) is advertising, in reckless disregard of the fact, that means of force, threats of force, fraud, coercion described in subsection (e)(2), or any

combination of such means will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act, shall be punished as provided in subsection (b).

18 U.S.C. §1591(a). Under §1595(a), not only perpetrators who act “knowingly” under §1591, but also “whoever knowingly benefits, financially or by receiving anything of value from participation in a venture which that person knew or should have known has engaged in an act in violation of this chapter” is civilly liable.

33. Reddit knowingly benefits from lax enforcement of its content polices, including for child pornography. By encouraging sensational and illegal content to be posted on Reddit, it receives substantial advertising revenues, which is why Reddit encourages moderators to leave as much content on the site as possible. By failing to enforce its policies, and indeed, encouraging and benefitting from CSEM, Reddit participates in the venture and indeed facilitates the conduct of sex traffickers, including those sex traffickers who deal specifically with children and child pornography.

34. In 2018, in response to platforms such as those run by Defendant knowingly allowing human trafficking to occur and profiting from it, Congress passed the Allow States and Victims to Fight Online Sex Trafficking Act/Stop Enabling Sex Traffickers Act (FOSTA/SESTA). Defendants like Reddit previously had sought to use Section 230 of the Communications Decency Act to whitewash their liability. FOSTA/SESTA was enacted to close that perceived loophole, including for website BackPage.com, which “for years, ha[d] been accused of accepting classified ads

promoting prostitution which allegedly resulted in sex trafficking of . . . minors.”⁸ Because “section 230” was “never intended to provide legal protection to websites that unlawfully promote and facilitate . . . traffickers,” and—under the purported shield of Section 230— websites had been “reckless in allowing the sales of sex trafficking victims and *have done nothing to prevent the trafficking of children*,” Congress “clarifi[ed]” Section 230. PL 115-164, 132 Stat 1253 (2018) (emphasis added).

35. The statute now makes it clear that websites and other platforms may be held liable for, among other things, knowingly assisting, facilitating, or supporting sex trafficking, and clarifies the Communications Decency Act’s Section 230 safe harbors to authorize enforcement of federal or state sex trafficking laws.

III. REDDIT’S BUSINESS MODEL

36. Reddit is an enormously popular website. According to the *New Yorker*, it is the fourth most popular website in the United States.⁹ And its popularity only continues to grow. According to the Company’s 2020’s year in review, Reddit has more than *52 million daily active users*, who have contributed to the 303.4 million posts, 2 billion comments, and 49.2 billion upvotes the Company recorded just last year alone.¹⁰

⁸ <https://www.forbes.com/sites/larrymagid/2018/04/06/doj-seizes-backpage-com-weeks-after-congress-passes-sex-trafficking-law/?sh=42687f0350ba>

⁹ <https://www.newyorker.com/magazine/2018/03/19/reddit-and-the-struggle-to-detoxify-the-internet>

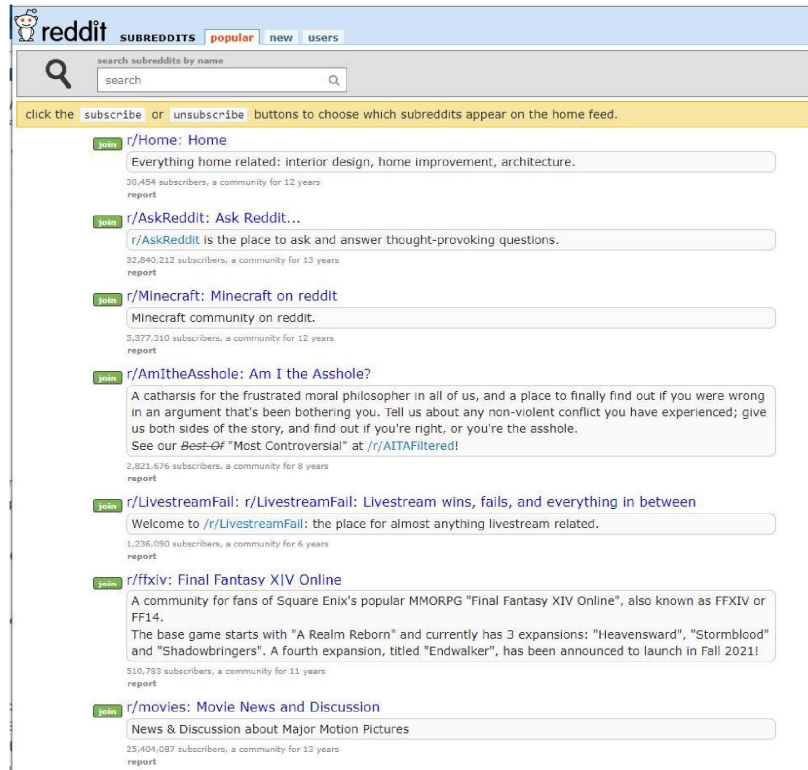
¹⁰ <https://redditblog.com/2020/12/08/reddits-2020-year-in-review/>

37. Reddit bills itself as “the front page of the internet” and it is a social sharing website. As one online tutorial explains, “It’s built around users submitting links, pictures, and text, which everyone can then vote on. The best content rises to the top, while downvoted content becomes less visible.”¹¹

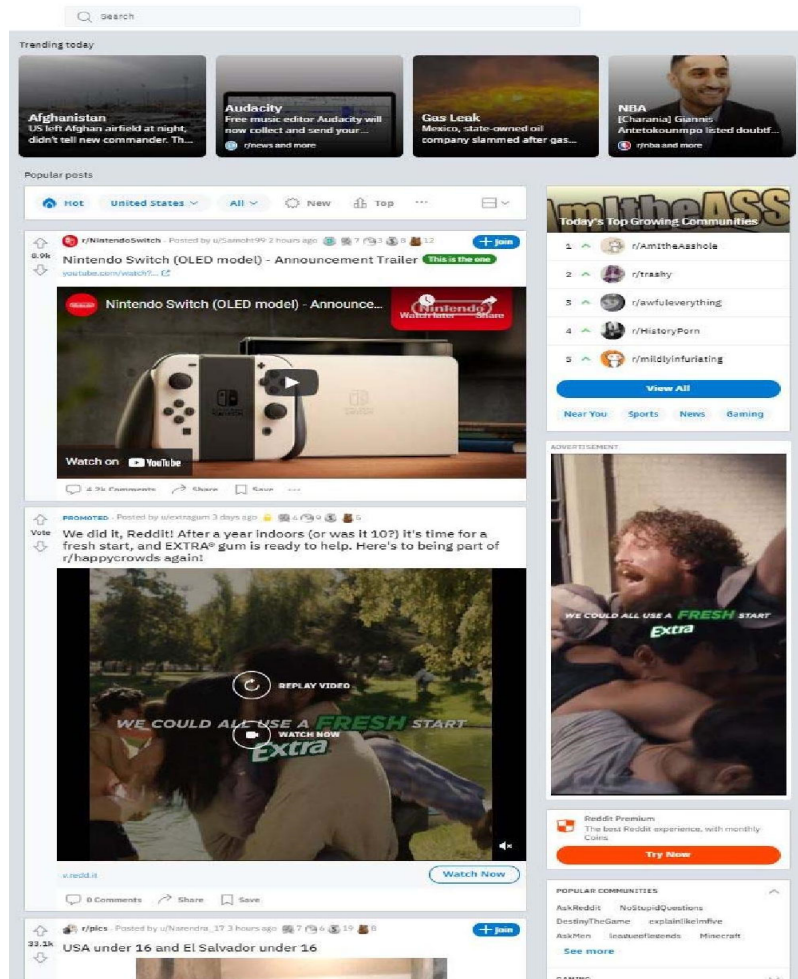
38. Reddit is a huge site but it is divided into thousands of smaller communities called subreddits. A subreddit is simply a board devoted to a specific topic. Each one starts with reddit.com/r/, such as reddit.com/r/legal advice/—a subreddit with more than a million members devoted to providing simple legal advice. In most cases, subreddits have their own themes, rules, and expectations.

¹¹ <https://www.makeuseof.com/tag/what-is-reddit/>

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39. When you visit Reddit's homepage (while not signed in), you'll see a feed of trending posts from various subreddits. You can click on a post's title to open it and read the comments, see the full-sized image, or visit the link.



40. Next to every Reddit post (and comments on posts), you'll see a number that represents its score, along with an up arrow and down arrow. These allow you to upvote or downvote content. If a post or comment gets a lot of upvotes, it moves up in the Reddit rankings so that more people will see it when they log on to the main site or an individual subreddit.

41. As yet further indication of the active role Reddit takes in shaping the narrative presented on its

websites, Reddit awards users “karma”, which “reflects how much a user has contributed to the Reddit community by an approximate indication of the total votes a user has earned on their submissions (‘post karma’) and comments (‘comment karma’).”¹²

42. In sum, Reddit is a source for what’s new and popular across the Internet. Reddit is made up of individual communities called subreddits, which have members or subscribers. Each subreddit has its own page, subject matter, users, and moderators. Users post stories, links, and media to these subreddits, and other users vote and comment on the posts.

43. When users visit reddit.com, they can also search for subreddits in a search box provided by Reddit, which then applies a search algorithm that is defined by Reddit. Reddit users can also join or subscribe to subreddits, which will cause posts from those particular subreddits to appear on the user’s “home feed” when they are signed in.

44. Reddit also allows users to create subreddits. Reddit ultimately has the power to control everything that appears on its main website and subreddits, but subreddits are managed by one or more lay “moderators,” such as the user that created the relevant subreddit, who can dictate what types of content are allowed in the subreddit. Reddit as a whole is governed by “administrators”, Reddit employees who have the power to strip moderators of their privileges and ban subreddits or particular content from the site. The primary role of Reddit administrators is to identify and remove content that violates

¹² <https://reddit.zendesk.com/hc/en-us/articles/204511829-What-is-karma->

Reddit's Content Policy, including in subreddits and private messages between users.

45. Reddit also has an internal Trust & Safety team that allegedly enforces its Content Policy against malicious users and takes down content violations that may have urgent legal or safety implications.

46. Reddit also has an Anti-Evil internal security team, which allegedly consists of back-end engineers who create automated software that flags content that violates Reddit's policies and sends that content to the Trust & Safety specialists, who decide on subsequent moderation steps. Reddit claims to have developed two automated software tools on its platform to moderate content: AutoMod and Crowd Control.

47. Reddit's "Legal Operations team" reviews copyright infringement notices pursuant to the Digital Millennium Copyright Act ("DMCA") and then "expeditiously remove[s] or disable[s]" the content.¹³

48. Reddit generates revenue through advertising and its ad-free premium membership plan. In 2019, Reddit generated more than \$100 million in total ad revenue, to say nothing of the revenue from its premium membership plan.¹⁴

¹³ <https://reddit.zendesk.com/hc/en-us/articles/360043515291-What-is-the-DMCAhttps://reddit.zendesk.com/hc/en-us/articles/360043517391-What-steps-does-Reddit-take-once-I-submit-a-copyright-infringement-notice->

¹⁴ <https://www.investopedia.com/articles/investing/093015/how-reddit-makes-money.asp#:~:text=The%20company%20generates%20revenue%20through,users%20to%20share%20media%20content.>

A. Reddit's Business Embraces User-Generated Uploads of Commercial Sex Acts

49. Reddit depends heavily on its community of user-creators. In order to upload a video or image to Reddit's site, all a person needs to do is click "post." The ease with which users can post makes it easy for sex traffickers to post images and videos of underage victims and to solicit victims to participate in their sex trafficking ventures. It also makes it easy for traffickers to share illegal content with one another.

50. The entire process takes less than one minute. A user can post any video or image of any person doing anything without any consequences. The user does not have to demonstrate that he or she owns the copyrights in the content, that those depicted in the content have consented, or that those depicted in the content are of majority age.

51. Reddit also has no robust way of verifying user age. User age is entirely self-reported and can be easily falsified. Reddit does not even ask for the user's date of birth during sign up—even though it of course easily could.

52. Reddit has access to and the opportunity to view the videos and images posted on its site. In a post regarding updates on Reddit's site-wide rules regarding involuntary pornography and the sexualization of minors, Reddit moderator "landoflobsters" wrote: "Our view of subreddits is comprehensive and involves analysis of some information that is not available to the public. We do not take banning communities

lightly and only do so in cases where we are confident that it is essential to improving the safety of users.”¹⁵

53. Reddit famously refuses to take down content, including content that violates its no child pornography policy, largely because Reddit benefits financially from the user traffic these posts drive to the site, not to mention because Reddit receives advertising revenue by maintaining controversial yet popular content on the subreddits. Plaintiffs’ own experiences (and the experiences of their daughters) highlight this problem. Despite repeated requests, in many instances, it took weeks, if not months, for Reddit to take down illegal videos and images depicting Plaintiffs (and/or their daughters) in a sexually explicit manner. In other instances, Reddit refused to remove the images, or simply failed to respond to the requests. This was despite Plaintiffs’ repeated outreach to individual moderators, as well as Reddit administrators, informing them of the fact that there was child pornography on their subreddits.

54. Indeed, there are many other instances of users complaining on Reddit that when they reached out to moderators or administrators complaining of child pornography, nothing was done. In 2012, a user complained, “I emailed an admin about a preteengirls thread EXPLICITLY showing photos of child porn.” He responded “thanks’ and “Nothing was done, NOTHING, which is what I expected.”¹⁶

55. In the comments on the thread relating to Reddit’s site-wide rules regarding sexualization of

¹⁵ https://www.reddit.com/r/announcements/comments/7vxzrb/update_on_sitewide_rules_regarding_involuntary/

¹⁶ https://www.reddit.com/r/technology/comments/pmbyc/some_thingawfulcom_starts_campaign_to_label_reddit/c3qj2ww/

minors, many users commented on a number of subreddits that featured child pornography, including one subreddit that featured a fourteen-year-old girl that had existed for almost four years. A moderator, *elis8*, likewise commented on how the subreddit *r/starlets* “was a source of all my troubles for years and it’s still up even though it’s literally created to sexualize minors.”¹⁷

56. Another user explained that the subreddit “*r/ratemeteen* is basically a virtual pedophile ring.”¹⁸

57. It was not until 2011 that Reddit even made a rule on its site that sexual content featuring minors was not allowed. This was in response to a Gawker article that found troves of child porn in forums like the subreddit known as */r/jailbait*.

58. As reported by *Gawker*, in 2011, Reddit user Michael Brutsch (operating under the handle *uu/Violentacrez*) “set up more than a hundred subforums (called sub-reddits) where users could share links and images of underage girls, rape fantasy and upskirt photos.” Brutsch shut down his *Violentacrez* username after *Gawker* reporter Adrian Chen told him he knew his identity. Following the *Gawker* article, Reddit banned a series of forums called out in that article that explicitly sexualized underage teens in their names or descriptions. However, it did nothing to prevent similar content from appearing on other existing or newly created forums. Put differently, it has done nothing to actually eliminate, let alone prevent the future upload of, content featuring

¹⁷ The post was made three years ago, but the *r/starlets* subreddit has subsequently been banned.

¹⁸ The post was made three years ago, but the *r/ratemeteen* subreddit has subsequently been shut down.

underage teens despite knowledge and awareness that its site was being used as a safe haven by child pornography traffickers.¹⁹

59. The same is true of content featuring even younger children. For example, in 2014, Reddit came under fire when underage nude photos of Olympic gymnast McKayla Maroney and MTV star Liz Lee were featured on the subreddit /r/thefapping.²⁰

60. As *The Washington Post* explained, while Reddit removed the photos of Maroney and Lee, “two public figures with publicists and lawyers and a legion of fans on alert for abuse,” it “doesn’t do much to help other young women whose photos might end up on questionably tasteful forums like /r/randomsexiness or /r/youngporn, where youthful photos are frequent, provenances are unknown and subjects’ ages are rarely disclosed.” Indeed, even though *The Washington Post* expressly called out the aforementioned subreddits as featuring underage women, as of April 22, 2021, when Jane Doe 1 initiated this Action, they were still featured on Reddit’s site, along with /r/BestofYoungNSFW, /r/Dirty18girls, /r/collegesluts, /r/TooCuteForPorn, /r/barelylegalteens, /r/18nsfw, /r/xsmallgirls, /r/YoungNiceGirls, /r/teensdirtie, /r/TeenBeauties, /r/YoungExoticHoes, /r/YoungGirlsGoneWild, and /r/teensdirty, all of which were identified on frontpagemetrics.com as some of the most popular subreddits on Reddit.

61. Even when a troubling subreddit gains enough publicity that Reddit has to remove it, as Reddit well

¹⁹ <https://www.washingtonpost.com/news/the-intersect/wp/2014/09/03/does-reddit-still-have-a-child-porn-problem/>

²⁰ <https://www.washingtonpost.com/news/the-intersect/wp/2014/09/03/does-reddit-still-have-a-child-porn-problem/>

knows, it is only a matter of time before new subreddits pop up in its place. For example, after Reddit removed the /r/jailbait subreddit, /r/preteen_girls was formed, which featured images of 11 year old girls in bikinis with sexually explicit captions.²¹

B. Reddit Knowingly Benefits From Child Sex Trafficking

1. Reddit Has Earned Enormous Revenues

62. Reddit generates substantial advertising revenue. Reddit has more than 1.34 trillion visitors each month.²² The number of visitors allows Reddit to make lots of money in advertising. In 2019, Reddit earned more than \$100 million in revenue from advertising alone, and that number has continued to increase.²³

63. There's no question that financial considerations drive the content on Reddit's websites. Reddit collects money from ads on subreddits. The more controversial the subreddit, the more buzz it generates from users. Those subreddits with more user engagement drive advertising revenue and earn Reddit money. Reddit measures user engagement in a number of ways, including measuring the number of upvotes and downvotes the posts receive, as well as the number of comments generated by posts. In fact, far from being a passive observer, Reddit awards its users "karma", which "reflects how much a user has

²¹ <https://culturedigitally.org/2012/03/limits-of-freedom-of-speech-reddits-child-pornography-problem/>

²² <https://www.techradar.com/news/porn-sites-attract-more-visitors-than-netflix-and-amazon-youll-never-guess-how-many>

²³ <https://www.investopedia.com/articles/investing/093015/how-reddit-makes-money.asp#:~:text=The%20company%20generates%20revenue%20through,users%20to%20share%20media%20content.>

contributed to the Reddit community by an approximate indication of the total votes a user has earned on their submissions (‘post karma’) and comments (‘comment karma’).²⁴ Having a good karma means you get posting privileges from Reddit and are more likely to be featured by Reddit on its ever-evolving homepage, which features those posts that rise to the top of community pages and, by extension, the public home page of the site.²⁵

64. Even subreddits without advertising generate revenue for Reddit. For example, as Reddit works to “lur[e] advertisers,” it knows that “more users on the platform” means “by extension there are more brands interested in working with us.”²⁶ Increased “action on Reddit has helped the company land new advertisers its main source of revenue—and bring back lapsed ones.”²⁷ Therefore, popular subreddits and posts—which enhance Reddit’s appeal to advertisers—benefit Reddit financially even if no advertisements are placed on those particular subreddits and/or posts. Reddit is “focused on daily usership and increasing

²⁴ <https://reddit.zendesk.com/hc/en-us/articles/204511829-What-is-karma->

²⁵ <https://reddit.zendesk.com/hc/en-us/articles/204511479-What-is-Reddit->

²⁶ <https://www.cnn.com/2018/06/29/how-reddit-plans-to-make-money-through-advertising.html#:~:text=To%20date%2C%20the%20business%20side,to%20comment%20on%20its%20financials.>

²⁷ <https://www.wsj.com/articles/reddit-ceo-backs-wallstreetbets-am-id-calls-for-stiffer-moderation-11612780206>

this number” in order to “scale [its] advertising business.”²⁸

65. Reddit also collects subscriptions from premium users of its websites. Prices range from \$1.99 to \$99.99. For \$6.99/month, users can sign up for Reddit Premium, which offers an ad-free experience, 700 coins each month, and access to the exclusive r/lounge community.²⁹

66. Reddit also has a currency (Coins) that users can use to award users (also known as Gilding) for submissions and comments—regardless of the subject matter. There are many ways in which users take advantage of these coins, which include giving them to users to participate in their campaigns, giving them to moderators of subreddits users want to participate in in hopes they will be more friendly with their moderation, and giving them through a contest, to drive more exposure to a users’ Reddit profile.³⁰

67. Reddit also uses personalization preferences to further monetize users by personalizing content and advertisements based on Reddit users’ interaction with the site, information from third party sites that integrate Reddit, and advertisers.³¹

²⁸ <https://www.wsj.com/articles/reddit-claims-52-million-daily-users-revealing-a-key-figure-for-social-media-platforms-11606822200>

²⁹ <https://protectyoungeyes.com/apps/reddit-parental-controls/>

³⁰ <https://www.inc.com/brent-csutoras/how-you-can-use-reddits-new-premium-accounts-to-better-connect-with-your-audience.html#:~:text=Reddit%20Coins%20are%20a%20brand,submissions%20and%20comments%20they%20make.&text=In%20addition%20to%20showing%20a,and%20costs%20500%20Reddit%20Coins.>

³¹ <https://protectyoungeyes.com/apps/reddit-parental-controls/>

2. Reddit Facilitates Child Sex Trafficking By Encouraging Users To Target Underage Content

68. Reddit disclosed for the first time in 2019 that it had hit the \$100 million-dollar mark in advertising revenue, and has 52 million daily active users, an increase of 44% from 2018.³²

69. As one of the top ten most popular websites on the Internet, Reddit is a popular channel for advertising purposes. If a post goes “viral,” advertisers (and Reddit) have the potential to earn a lot of money.³³

70. Reddit has an advertising program, Reddit Ads, and promises advertisers that it will “connect your brand to our 52 million daily active users.”³⁴ One of the ways Reddit recommends for its advertisers to have the most success with their advertising campaigns is to target specific interest groups, specific sub-groups, and specific subreddits.

71. The below screenshot from Reddit’s advertising page shows Reddit directing potential advertisers to find subreddits (“example communities”) that will allow the advertiser to “display your ad to the right

³² <https://adage.com/article/digital/reddit-plots-path-1b-ad-sales-first-it-needs-convince-brands/2298626#:~:text=Reddit%20disclosed%20for%20the%20first,of%2044%25%20since%20last%20year>.

³³ <https://www.shopify.com/blog/119995717-findlay-hats-viral-reddit-post>

³⁴ <https://www.shopify.com/blog/119995717-findlay-hats-viral-reddit-post>

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audience based on a user's browsing behavior on Reddit.”³⁵



72. Reddit also displays advertising on users' "home feeds," which means that users see those advertisements in conjunction with posts from the subreddits

³⁵ <https://advertising.reddithelp.com/en/categories/targeting/targeting-interest>

they have joined or subscribed to, whether or not they go directly to the subreddits.³⁶

73. Reddit's minimum spend for an advertising campaign is \$5, and it costs \$0.75 per thousand-page views, which means that advertisers want to target subreddits that get enough page views to be eligible for advertising. There are tools like RedditList and FrontPageMetrics that help advertisers identify the subreddits that are most likely to generate views, making their advertising campaigns worthwhile.

74. A number of the subreddits recently highlighted on frontpagemetrics.com are clearly targeting users interested in child pornography. For example, among Reddit's recent most popular subreddits are: r/LegalTeens, r/Dirty18girls, r/collegesluts, r/TooCuteForPorn, r/Female18, r/barelylegalteens, r/Gonewild18, r/18nsfw, r/xsmallyounggirls, r/YoungNiceGirls, r/teensdirtie, r/youngporn, r/TeenBeauties, r/YoungExoticHoes, r/YoungGirlsGoneWild, r/18yoGirls, and r/teensrdirty.

75. The more views Reddit gets, the more advertiser interest it has, and the more revenue it generates. By encouraging as much content to remain on Reddit as possible, turning a blind eye to subreddits that are obviously geared toward child pornography, and failing to train moderators to limit child pornography on Reddit, Reddit continues to focus on its number one goal: profit.

³⁶ <https://advertising.reddithelp.com/en/categories/creating-ad-s/ad-placements>

3. Reddit's Knowingly Fails to Moderate Content

76. In an effort to attract attention, revenues, and other benefits, users post content that generates traffic. Often this content is CSEM.

77. Reddit knowingly participates in and capitalizes on this user interest.

78. The Washington Post has described how Reddit has a “dense hierarchy of volunteers” and employs a “handful” of “community managers” to oversee them.³⁷

79. In August 2020, Reddit started beta testing a new program to train and certify moderators. It has councils of moderators it consults with and offers resources to guide the volunteers. For example, volunteer moderators can request help from teams of experienced moderators.³⁸

80. Although Reddit claims the goal of content moderation is to locate and prevent the sharing of child pornography and other illegal material, the truth is that Reddit's focus is maximizing revenue. Reddit is known for its laissez-faire approach to content moderation, which means that Reddit tries to ban as little content as possible.

81. Reddit claims to have “dedicated teams that enforce [its] site-wide policies, proactively go after bad actors on the site, and create engineering solutions to detect and prevent them in the future.” It purports to “continue to strengthen the measures [it] has in place

³⁷ <https://www.washingtonpost.com/news/the-intersect/wp/2014/09/03/does-reddit-still-have-a-child-porn-problem/>

³⁸ <https://www.washingtonpost.com/technology/2020/08/25/volunteer-moderators-2020/>

to prevent or limit the impact of policy-breaking activity, which combine technology tools with human review and moderation.”³⁹ Despite Reddit’s opportunities to monitor the content on subreddits, Reddit has repeatedly failed to take action.

82. Reddit claims on its website that it “prohibits any sexual or suggestive content involving minors or someone who appears to be a minor.” Reddit does not make a commitment to users that it will immediately remove sexual or suggestive content involving minors and only provides users with an opportunity to “report” content that sexualizes minors. The reporting tool merely allows a user to link to a post and check a box that says “it’s sexual or suggestive content involving minors.” There is no opportunity for a user to explain to Reddit why the content is child pornography, and the user has to rely on a Reddit administrator or moderator to decide whether to remove the content. Because Reddit’s business model profits from sexual videos and images featuring underage victims by sending users and ad dollars to the site, Reddit rarely removes such content. Indeed, Plaintiffs have been trying with limited success to have the sexual content featuring them (or their daughters) removed from Reddit. What Reddit is actually doing is providing the window-dressing of content moderation to satisfy the general public that it is operating a safe platform while in practice shielding illegal content through non-enforcement of its policies. Again, the reason for this is to maximize traffic on its website and boost revenues.

³⁹ <https://www.vice.com/en/article/7k9ka4/girls-do-porn-doxing-reddit-banned>

4. Reddit Facilitates Solicitation of CSEM

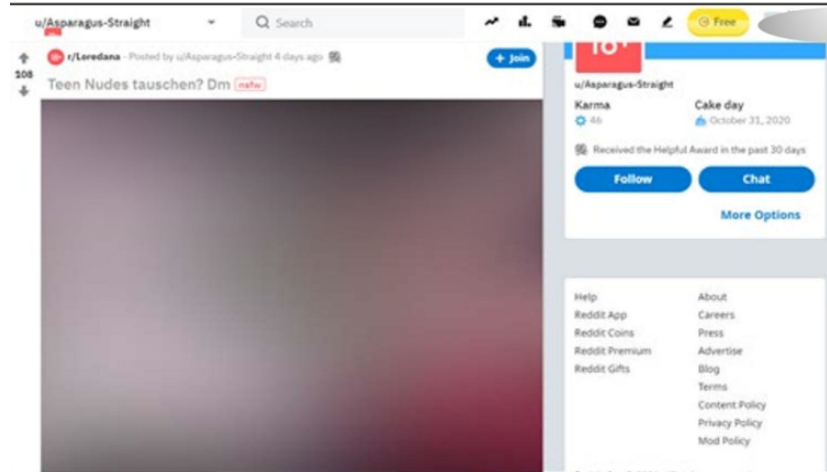
83. There are a troubling number of subreddits where users have been found soliciting or offering CSEM images via links to external websites and storage folders, like Discord.

84. Offers to trade CSEM images or videos have been identified on the following subreddits alone:

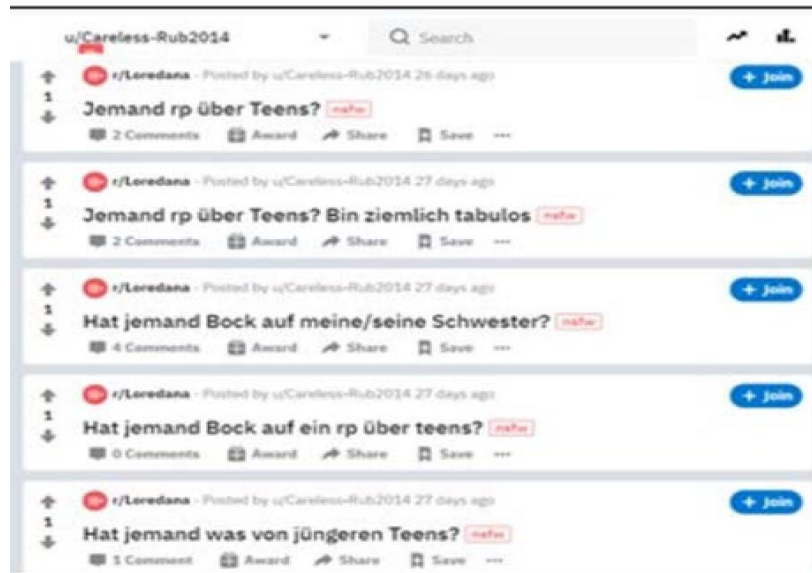
- r/DiscordNudes/
- r/Loredana
- r/JerkOffToMySis
- r/sirtykikgroups
- r/dirtykikpals
- r/Strokebuds
- r/Wixbros
- r/Deutschetributes
- r/GermanTradesNSFW
- r/Pervs_wickr
- r/NicoleDobrikovHot/

85. For example, an image and note asking to trade “teen nudes” was posted to the r/Loredana subreddit by the user u/Asparagus-Straight.

84a

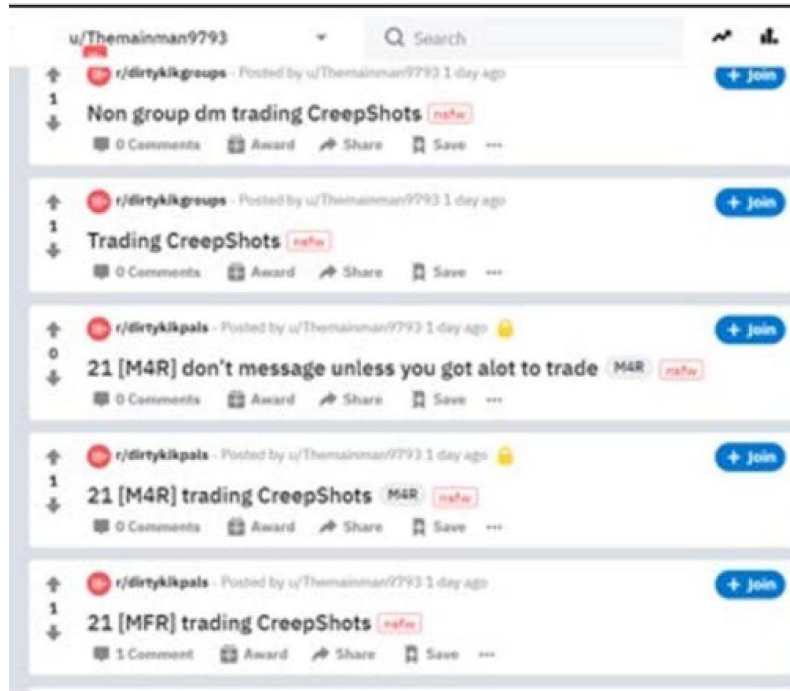


86. Similarly, the following notes were posted by user u/Careless-Rub 2014 to the subreddit r/Loredana. The photo solicitations (in German) include young teens (“jüngeren Teens”), photos of a user’s sister (“Schwester”), and trading teens “taboo-free” (“tabulos”).

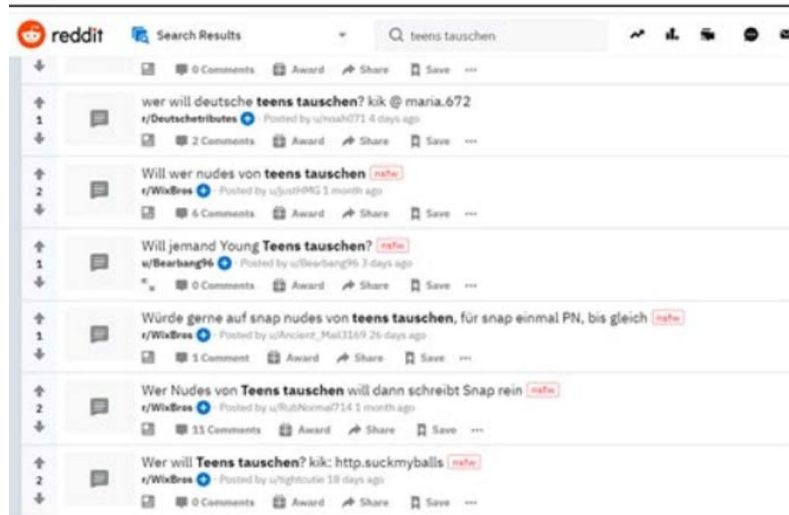


85a

87. As yet another example, the following messages were posted to the subreddit r/dirtykikgroups by the user u/Themainman9793:



88. The following messages in German offered to trade photos of teens (“Teens tauschen”) including “Young teens”:



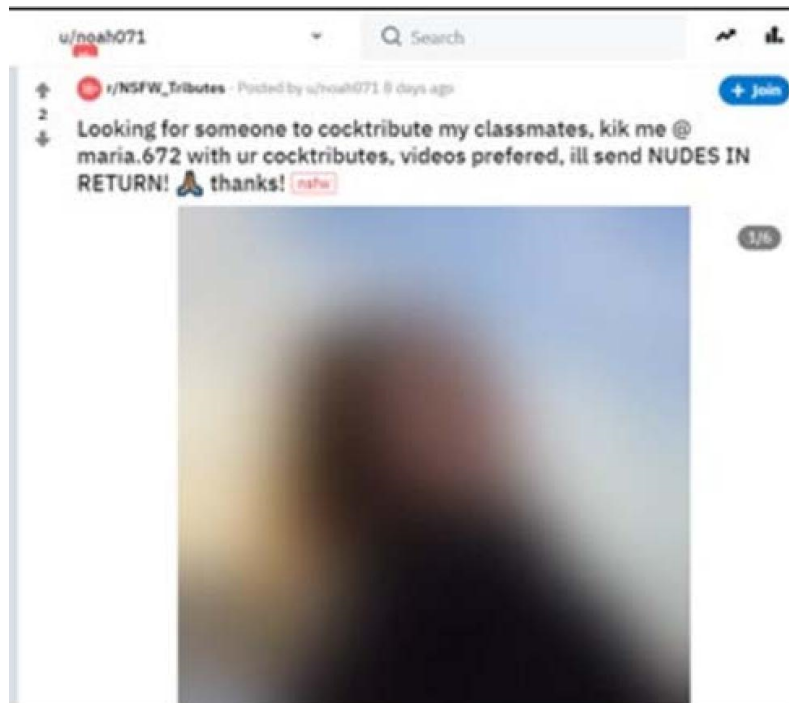
89. Reddit permits its users to send each other private, direct messages. Reddit users use such private, direct messages to send each other information about how to access CSEM by, for example, including links to images containing CSEM. Reddit users sometimes arrange an exchange of money for access to CSEM over private, direct messages.

5. Reddit Facilitates Non-Consensual Use of Minor Images as Fetishes

90. In addition to solicitation of CSEM, there are a number of subreddits where users have posted photos of minors without consent and/or used or solicited the use of photos for sexual purposes, like the creation of pornographic images and masturbation.

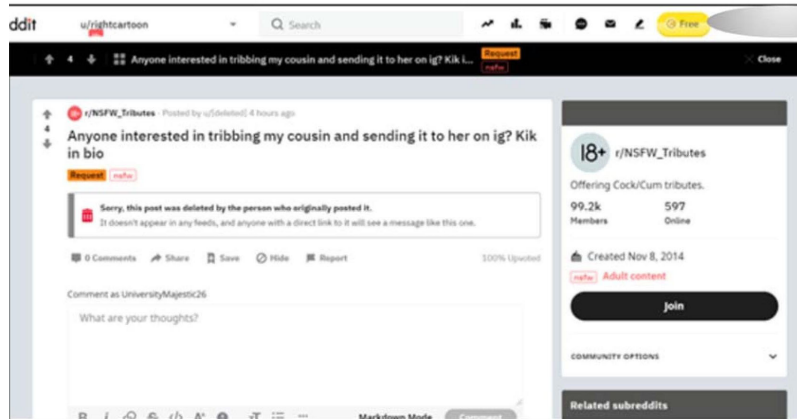
91. For example, the following post from subreddit r/NSFW_Tributes includes an offer to trade CSEM:

87a



92. "Tribute" is a term used in the Reddit community for videos of users masturbating to videos or images of a person.

93. This post, from the same subreddit, invites respondents to post their "tribute" photos to the Instagram account of the minor female who was originally pictured:



94. This type of content has been identified on the following subreddits:

- r/NSFW_Tributes
- r/JerkOffToMySis
- r/GermanTradesNSFW
- r/Deutschtributes
- r/CockTributes
- r/cumtributes
- r/Cum_Tribute_Hub

6. There are Countless Instances of Subreddits that Target Users Searching for CSEM

95. The extent of CSEM on Reddit is troubling. On public subreddits alone, there are countless instances of CSEM. The following 48 subreddits—some of which featured Plaintiffs' (or their daughters') images—are merely some of the examples of subreddits that target users seeking CSEM:

- /r/jailbait/5
- /r/barelylegalteens
- /r/LegalTeensGW
- /r/18nsfw
- /r/worldpolitics6⁴⁰
- /r/18_Plus_NSFW/
- /r/hentai_irl
- /r/dirtysmall
- /r/FauxBait
- /r/petite
- /r/aa_cups/
- /r/smallboobs
- /r/downblouse/
- /r/TeenBeauties
- /r/petite/
- /r/2000sGirls
- /r/Teenpussyx/
- /r/TooCuteForPorn
- /r/InnocentlyNaughty/
- /r/GoneWildCD
- /r/talkedintoit/
- /r/adorableporn

⁴⁰ According to various Reddit posts, more than a year ago the r/worldpolitics subreddit was “taken over” by users posting pornographic images, some of which included CSEM.

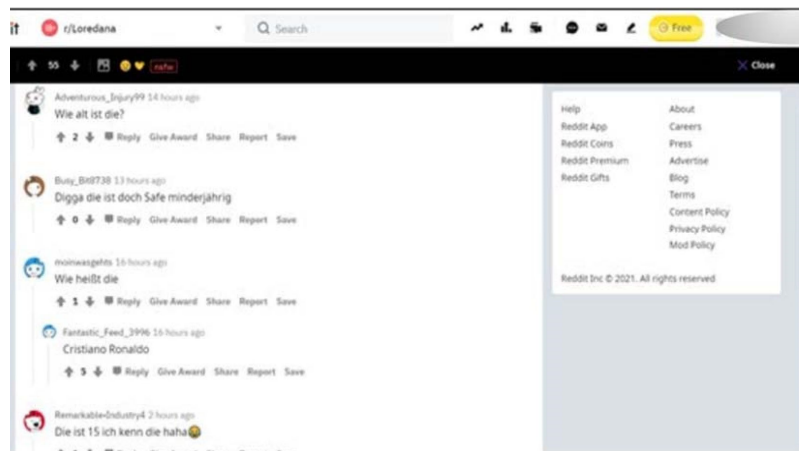
- /r/funsized
- /r/xsmallgirls
- /r/Amateur
- /r/gonewild
- /r/PetiteGoneWild
- /r/Nsfw_Amateurs
- /r/LegalTeens
- /r/youngporn
- /r/Gonewild18
- /r/IndianTeens
- /r/18_19
- /r/YoungPrettyHoes
- /r/18nsfw
- /r/snappleaks
- /r/Upskirt
- /r/Nude1819
- /r/TinyTits
- /r/Omeglesex/
- /r/DirtySnapchat
- /r/SnapchatSext
- /r/collegesluts
- /r/Photobucket
- /r/ratemynudebody
- /r/NSFWKikGroups
- /r/Creepshots

91a

96. An image posted by u/ExiledLuucifer696969 to the subreddit r/JerkOffToMySis indicates that the photo is of a nude, pubescent female in the shower with her breasts visible. The photo appears to have been taken surreptitiously and includes an offer by the user to provide additional videos.

97. Similarly, an image posted by the user u/BearBang96 to the subreddit. r/WixBros includes the text “u18,” suggesting that the subject is under 18 years old.

98. There are also a number of comments regarding explicit photos demonstrating Reddit users’ awareness that the subjects are underage. The below comments by user u/Remarkable-Industry4 suggest that he knows the female who posted and that she is 15 years old.



99. As another example, a post on the subreddit r/PetiteNSFW links to external video content, and user comments indicate that the subject of the CSEM was “proven before to have been underage when this was filmed,” admitting that it is “[i]legally speaking” “child porn.” The posting user suggested that Reddit had previously banned the user from another

subreddit for posting the same CSEM on the other subreddit, but was not banned from Reddit altogether. Moreover, the post demonstrates that Reddit permitted the continued posting of an image known to be CSEM.

100. Another post on the same *r/PetiteNSFW* subreddit is titled “Homemade Sex Tape with a Very Cute Amateur teen,” and links to sexually explicit video content. There is no indication of any effort by Reddit to verify the subjects’ ages or mutual consent to the video being posted. The user who posted the video has been suspended, but Reddit has not removed the CSEM post from its website.

101. As another example, multiple posts on the subreddit *r/DadWouldBeProud* feature sexually explicit videos and/or images of young female subjects, in which multiple users comment that the subjects appear to be minors.

102. Multiple posts on the subreddit *r/LegalTeensGW* also feature sexually explicit images of nude or partially clothed young female subjects, with users commenting on the fact that they appear to be underage.

103. There are additional instances of CSEM on the subreddits *r/Pervs_wickr* and *r/sTrokebuds*.

104. These images are only a small sample of the content available on Reddit, and do not encompass the content on private subreddits, or sent through private, direct messages where CSEM is likely even more prevalent.

105. In response to the proliferation of CSEM and other content in violation of Reddit’s purported rules, various subreddits have highlighted offensive content:

- u/Solocro wrote: r/familyincest filled with cp⁴¹ looking at the person that posted those vides shows that they have posted in different subs too
- u/worldbuilder3 wrote: r/nolimit cp
- u/Anongraffiti wrote: r/kittyashleeee about the 13 year old girl Well well well looks like another one if this damn 13 year old keep popping up. Although this one looks very very new You know what to do also. The owner is u/Thegoose0607 Another is u/Status_Computer4519 definitely a burner account Also in r/discordnudes a user by the name u/wet_blanket304 was asking for nudes if Ms Ashley 13 days ago His account doesn't seem to be a burner.
- u/GrainGang wrote: r/snapchatnudetraders Most recent post has a degenerate [sic] asking for snaps of porn/lewd snaps of minors
- u/spidermon05 wrote: r/Cynnett2 posts CP and nudes of a minor she's 17 and they have videos of her from when she was 14-15 on there too. i know she's underage because she lives in my city, everyone knows about how she has an OF as a minor. please report r/Cynnett2, it is CP without a doubt.
- u/Guuguuff22 wrote: r/gabriellaSaraivahNSFW contains nude images of a 16 years old

7. Reddit Has a History of Moderator Negligence and Abuse

106. Reddit's internal security has been compromised by its choice to rely on unpaid moderators,

⁴¹ "cp" is a common term for CSEM ("child pornography").

which fail to enforce the standards that are supposed to protect Reddit users and others. In contrast to other technology and social media firms, which employ “armies” of paid moderators and contractors trained to sift through content for policy violations or illegal material, Reddit’s “crowdsourced” approach is intentionally ill-equipped to deal with the problem at hand. This is shocking given the substantial revenue and “valuation” attributed to Reddit, which was recently reported to be \$6 billion.⁴²

107. There are limited options for users to report poor moderation. Reddit’s online support site⁴³ allows users to “submit a request” for assistance and includes “File a Moderator Complaint” in the drop-down menu. According to a Reddit administrator, “more than 99%” of these reports are not actionable.⁴⁴

108. Numerous users have likewise complained about Reddit administrator response times and effectiveness.⁴⁵ The tools available to report poor moderation are not effective. Reddit administrators are frequently slow to respond to user reports and in many cases, like Plaintiffs’ cases, they fail to “actually enforce the health community rules.” The administrative team is understaffed, and moderators have noted their difficulty in communicating with administrators about issues impacting their communities or their role.

⁴² <https://www.cnbc.com/2021/02/09/reddits-valuation-doubles-to-6-billion-after-new-250-million-funding-round-.html>

⁴³ <https://reddit.zendesk.com/hc/en-us/requests/new>

⁴⁴ https://www.reddit.com/r/announcements/comments/gxas21/upcoming_changes_to_our_content_policy_our_board/ft08mel/

⁴⁵ https://old.reddit.com/r/ModSupport/comments/9h7w7u/redithelpcom_now_has_a_moderator_complaint_form/

109. One Reddit administrator noted that members of the team can be on different schedules, so “it’s a bit of back and forth waiting” to address issues being reviewed by multiple team members.⁴⁶ The administrator also said “unfortunately sometimes tickets do get lost in the shuffle.”

110. Claims of moderator abuse are well documented in several subreddits, including r/modsbeingdicks, r/watchredditdie, and r/subredditcancer. Many of these posts identify seemingly arbitrary behavior by moderators that violate the Moderator Guidelines. Plaintiffs’ own experiences (and the experiences of their daughters) highlight this problem. Indeed, the subreddit moderator(s) for many of the subreddits featuring CSEM with images of Jane Doe 1 and the other Plaintiffs’ daughters appeared to be the same individual(s) that had obtained those images, in many cases through extortion of Plaintiffs’ daughters, in the first place.

111. Reddit has a history of failing to take action until controversial content is reported in media sources. Several posts have indicated that Reddit will not remove problematic subreddits unless they gain media or celebrity attention, or if Reddit receive legal documentation. One post, dated June 14, 2018, contained a list of “problematic subreddits,” several of which claim to feature “young looking” subjects in a sexualized context.⁴⁷ This list was assembled with the intent of sending it to the media so it could gain

⁴⁶ https://www.reddit.com/r/ModSupport/comments/bzpk66/how_understaffed_are_the_admins/er5j6xx

⁴⁷ The original post has been deleted, but it has been preserved as a comment at https://www.reddit.com/r/Drama/comments/8r7qfj/terfs_are_trying_to_ban_pornography_off_of_reddit/eb444kx.

enough attention to get Reddit to shut the subreddits down. As of April 1, 2021, all subreddits on that list were still active, and many continue to be active as of July 6, 2021.

112. In many instances, moderators have claimed to remove CSEM content only to have Reddit respond that the content “doesn’t violate Reddit’s Content Policy.”⁴⁸ Even when Reddit does agree with a moderator’s decision to flag content for sexualizing minors, there are claims that the posts in question remain online and accessible despite multiple reports and acknowledgement from Reddit stating they have investigated and “actioned” the content.⁴⁹

113. There are also reports of users receiving only temporary bans from the site for posting content flagged as sexualizing a minor, and regaining full access to their account after a few days, in addition to posts being incorrectly flagged and actioned.⁵⁰ Conversely, a user claimed that they reported an account posting what appeared to be underage content, and the account remained online.⁵¹

114. Reddit obtains information about its users—such as their “IP logs (including registration IP)” and “email address”—that it could use to prevent banned users from opening new accounts with different user

⁴⁸ https://www.reddit.com/r/modhelp/comments/m5ltrb/reddit_ok_with_sexualization_of_minors/

⁴⁹ https://www.reddit.com/r/modhelp/comments/kv54p7/what_to_do_about_a_broken_cploli_reporting_system/

⁵⁰ https://www.reddit.com/r/help/comments/kswyyo/why_arent_sexualization_of_minors_posts_deleted/

⁵¹ https://www.reddit.com/r/WatchRedditDie/comments/fwlwpd/had_my_account_permanently_suspended_for/

names.⁵² As demonstrated by the experiences of Plaintiffs—who were revictimized by the same apparent individuals on Reddit, using new user names after the few times the individuals’ usernames have been banned—Reddit chooses not to use that information to permanently ban distributors of CSEM from its websites.

8. Reddit Has Admitted That Videos Featuring Underage Persons Are Some Of The Most Popular/Sought-After Content On Reddit

115. The more controversial the subreddit, the more attention the subreddit receives. The more attention the subreddit receives, the more revenue Reddit generates. Perhaps the best example is the /r/jailbait subreddit, which was removed in 2011 after Anderson Cooper of CNN devoted a segment of his program to condemning the subreddit and criticizing Reddit for hosting it. The “jailbait” subreddit was heralded in the Reddit community as the chosen “subreddit of the year” in the “Best of reddit” user poll in 2008 and at one point, jailbait was the second most common searched term on the site.⁵³

116. Reddit’s general manager, Erik Martin, defended the subreddit by saying: “We’re a free speech site with very few exceptions (mostly personal info) and having to stomach occasional troll reddit like /r/picsofdeadkids or morally questionable redds like

⁵² <https://www.redditinc.com/policies/guidelines-for-law-enforcement>

⁵³ <https://web.archive.org/web/20121012213707/http://gawker.com/5950981/unmasking-reddits-violentacrez-the-biggest-troll-on-the-web>

/r/jailbait are part of the price of free speech on a site like this.”⁵⁴

117. Reddit “will not ban questionable subreddits” because it sees itself as “the government of a new type of community” in which “[a]ctions which are morally objectionable or otherwise inappropriate” are tolerated.⁵⁵

118. While Reddit’s executives may be content to have “morally questionable redds,” the law prohibits it from knowingly profiting from sex trafficking, which is what Reddit is doing here.

C. Reddit Knows That Its Websites Are Known For Sex Trafficking Activity

119. This is not a situation where Reddit can credibly claim ignorance. Reddit has itself admitted that it is aware of the presence of child pornography on its website.

120. In December 2018, Reddit employee Marta Gossage explained to Insider that, as part of her daily routine, after waking up early in her apartment on Manhattan’s Upper West Side, she’d spend an hour or more checking in on recently problematic subreddits, “such as whatever was bubbling up at the time in the Violentacrez universe, say, r/picsofdeadfailbait, his attempt to outfilth r/jailbait, which was now banned.”⁵⁶ Another employee, Erik Martin, likewise explained that he was responsible for dealing with the

⁵⁴ <https://www.dailydot.com/society/reddit-beatingwomen-misogyny-images/>

⁵⁵ <https://redditblog.com/2014/09/06/every-man-is-responsible-for-his-own-soul/>

⁵⁶ <https://www.businessinsider.com/reddit-moderators-jobs-and-the-early-days-of-reddit-2018-10>

more “grisly content” including “sexualized images of minors.”⁵⁷

121. Since 2019, but not before,⁵⁸ Reddit has claimed in an annual “transparency report” to use PhotoDNA technology for images, as well as YouTube CSAI technology for videos, to locate CSEM on its websites.⁵⁹ These are automated image-recognition technologies used for detecting child pornography. Companies like Reddit are legally required to report CSEM to NCMEC, which maintains a database of known CSEM.^{60,61} From that database, NCMEC creates unique “hashes” that represent the CSEM, and can be used with image-recognition technologies to automatically identify other instances (or near instances) of those same images and videos.⁶² For example, “PhotoDNA is able to compare the attributes of any given images with those of illegal images to seek out matches,” and “much of the process is entirely automated and hands-off.”⁶³

122. PhotoDNA has been available, for free, to qualified organizations since 2014.⁶⁴ On information and belief, Reddit did not begin using PhotoDNA, or any other image-recognition technologies to identify

⁵⁷ *Id.*

⁵⁸ <https://www.redditinc.com/policies/transparency-report-2018>

⁵⁹ <https://www.redditinc.com/policies/transparency-report-2019>

⁶⁰ <https://www.justice.gov/opa/pr/acting-ag-and-five-country-statement-temporary-derogation-eprivacy-directive-combat-child>

⁶¹ <https://en.wikipedia.org/wiki/PhotoDNA>

⁶² <https://en.wikipedia.org/wiki/PhotoDNA>

⁶³ <https://betanews.com/2015/07/17/microsoft-photodna-weeds-out-illegal-child-porn-and-abuse-images/>

⁶⁴ <https://en.wikipedia.org/wiki/PhotoDNA>

CSEM, until it disclosed that use for the first time in its 2019 “transparency report.”

123. Reddit does not use PhotoDNA widely to automatically locate CSEM images and videos among all the images and videos distributed on its websites. The experiences of Plaintiffs (and their daughters), as described below, confirms this. Had Reddit been appropriately using image-recognition technologies to automatically locate and remove known CSEM, Reddit would have automatically located and removed the known CSEM images depicting Plaintiffs and/or their daughters. Instead, due to Reddit’s tacit approval of CSEM on its websites, Plaintiffs have been forced to manually review degrading subreddits at length, exacerbating their victimization and distress, in order to manually locate and report CSEM.

124. Although Reddit is required to report CSEM to NCMEC, it dramatically underreports known instances of CSEM to NCMEC’s Cyber Tipline. For example, although Reddit was one of the most popular websites in the world in 2019—with 430 million monthly active users and 199 million posts⁶⁵—and although, as described herein, Reddit’s websites were rife with CSEM, Reddit only made 724 CSEM reports to NCMEC in 2019.⁶⁶

125. Beyond its own purported monitoring, there are various other ways in which Reddit has been made aware of the fact that its platform has become a go-to home for child pornography.

⁶⁵ <https://redditblog.com/2019/12/04/reddits-2019-year-in-review/>

⁶⁶ <https://www.missingkids.org/content/dam/missingkids/gethelp/2019-reports-by-esp.pdf>

1. The Presence Of Underage Pornography
Is Obvious From Language On Reddit's
Own Website

126. To start, Reddit need go no further than the language used on its own website.

127. For example, until Reddit came under pressure to take them down, it was home to such subreddits as:

- /r/teen_girls
- /r/TeenGirls
- /r/pro_teen_models
- /r/preteen_girls
- /r/JailbaitArchives
- /r/JailbaitVideos
- /r/TrueJailbait
- /r/niggerjailbait
- /r/ChestyBait
- /r/bustybait
- /r/cutegirls
- /r/asianjailbait
- /r/JustTeens
- /r/JailbaitJunkies
- /r/jailbait_nospam
- /r/jailbaitgw
- /r/nudistbeach
- /r/Purenudism
- /r/teens
- /r/TheNewJailbait

- /r/trapbait
- /r/malejailbait
- /r/malejailbaitarchives
- /r/lolicon
- /r/shotacon
- /r/assbait
- /r/preteen_boys
- /r/photobucketplunder
- /r/AngieVarona
- /r/picsofdeadjailbait⁶⁷

2. Presence Of Underage Pornography Brought To Reddit's Attention Via Users

128. Users of Reddit, not to mention child pornography victims and their families, have also notified Reddit of the presence of child pornography on their website.

129. In 2012, a user explained: "I emailed an admin about a preteengirls thread EXPLICITLY showing photos of child porn." The Reddit administrator responded "thanks" and "[n]othing was done, NOTHING, which is what I expected."⁶⁸

130. Similarly, in the comments on the thread relating to Reddit's site-wide rules regarding sexualization of minors, many users commented on a number of subreddits that featured child pornography,

⁶⁷ https://www.reddit.com/r/blog/comments/pmj7f/a_necessary_change_in_policy/

⁶⁸ <https://www.washingtonpost.com/news/the-intersect/wp/2014/09/03/does-reddit-still-have-a-child-porn-problem/>

including one subreddit that featured a fourteen-year-old that had existed for almost four years.

131. As yet further examples, a moderator, elis8, commented on how the subreddit *r/starlets* “was a source of all my troubles for years and it’s still up even though it’s literally created to sexualize minors.” And another user explained that the subreddit “*r/ratemeteen* is basically a virtual pedophile ring.”

132. Finally, a September 2020 story in *The U.S. Sun* details how a Reddit user and moderator recently confessed—on Reddit—to being obsessed with child pornography. He had joined a subreddit known as *PedoGate* that apparently was about bringing justice to children, but after police showed up at this user’s house, Reddit eventually took the subreddit down as it turned out to be promoting “sexually suggestive content involving minors.”⁶⁹

3. Presence Of Underage Pornography Brought To Reddit’s Attention Via Third-Party Reporting

133. Media outlets have also placed Reddit on notice of the presence of child pornography its platform.

134. The mainstream media began covering Reddit’s child pornography problem back in October 2011, following Anderson Cooper’s detailed coverage of the darker side of the Reddit message boards. In particular, Mr. Cooper zeroed in on a subreddit known as *r/jailbait*, which was at the time home to more than 20,000 users.

⁶⁹ <https://www.the-sun.com/news/1503509/reddit-pedogate-banned-moderator-addicted-child-porn/>

135. On October 12, 2014, *Gawker* published an article exposing the moderator of r/jailbait, entitled “Unmasking Reddit’s Violentacrez, The Biggest Troll on the Web.” As reported by *Gawker*, the subreddit r/jailbait was “dedicated to sexualized images of underage girls” and Violentacrez and his fellow moderators worked hard to make sure very girl on jailbait was underage, diligently deleting any photos whose subjects seemed older than 16 or 17.”⁷⁰

136. On September 3, 2014, *The Washington Post* published an article reporting on the “Celebgate” spectacle, which included naked photos of Olympic gymnast McKayla Maroney—taken while she was underage—being posted on the subreddit /r/thefapping. The article concludes that “Reddit still hosts virtually every kind of fifth and depravity you can conceive of – and probably quite a bit that you can’t.” Including “rape porn”, “collections of dead children” and “many, many nude photographs of women who appear to just at, if not under, the age of majority.”⁷¹

137. On April 28, 2020, BuzzFeed.News reported how a TikTok sensation found nude images that she had taken when was 17 on Reddit. The now-defunct subreddit created to share the images was the fastest growing subreddit on April 3 of that year, making it impossible for Reddit to have not known about it.⁷²

138. On September 24, 2020, *Rolling Stone* published an article entitled: “How TikTok Teens are

⁷⁰ <https://gawker.com/5950981/unmasking-reddits-violentacrez-the-biggest-troll-on-the-web>

⁷¹ <https://www.washingtonpost.com/news/the-intersect/wp/2014/09/03/does-reddit-still-have-a-child-porn-problem/>

⁷² <https://www.buzzfeed.com/cameronwilson/tiktok-underage-nudes-leaked-harassment>

Ending Up on Pornhub,” explaining that these underage images are finding their way onto not only traditional porn websites, but also Reddit.⁷³

139. More recently, on December 4, 2020, *New York Times* opinion columnist Nicholas Kristof published a detailed piece entitled “The Children of Pornhub.” While the focus of the article was the presence of child pornography on various pornographic websites, Mr. Kristof explained: “Depictions of child abuse also appear on mainstream sites like Twitter, Reddit and Facebook.”⁷⁴

4. Presence Of Underage Pornography Brought To Reddit’s Attention Via Advocacy Groups

140. Advocacy groups have devoted significant resources to bringing attention to the ubiquitous problem of child pornography on Reddit.

141. Most notably, since 2013, the National Center on Sexual Exploitation has published “The Dirty Dozen List”—an annual campaign calling out twelve mainstream entities for facilitating or profiting from sexual abuse and exploitation. In 2021, Reddit earned a spot on the list. As explained by the Center: “child sexual abuse material is also easily found on the site because Reddit refuses to institute strong polices and, despite being worth \$6 billion, refuses to spend money on moderators and technology solutions to reduce

⁷³ <https://www.rollingstone.com/culture/culture-news/tiktok-dance-pornhub-nonconsensual-porn-1064794/>

⁷⁴ <https://www.nytimes.com/2020/12/04/opinion/sunday/pornhub-rape-trafficking.html>

sexual abuse and exploitation material surfacing on their site.”⁷⁵

142. In sum, Reddit fully understands and markets itself as a gateway of the internet, and while discovery will reveal the full extent to which Reddit is aware of the existence of child pornography being trafficked through its own websites, there’s simply no question it is aware of the staggering flow of child pornography over the world wide web as a whole, and yet it did little to nothing to prevent it. Indeed, Reddit was made aware of the specific CSEM depicting Plaintiffs and/or their daughters posted to its website, and although it had access to free technology to automatically locate and put an end to further distribution of that CSEM, it failed to do so.

IV. PLAINTIFFS’ EXPERIENCES (AND THE EXPERIENCES OF THEIR DAUGHTERS) AS VICTIMS OF DEFENDANTS’ SEX TRAFFICKING

Jane Doe 1

143. Jane Doe 1 was in high school when her boyfriend created four videos of the two of them engaging in sexual intercourse. She was sixteen years old at the time the videos were recorded, and some of the videos were recorded without her knowledge let alone consent. She was induced to perform the sex acts depicted in the videos.

144. The relationship ended when Jane Doe 1’s boyfriend pushed her out of his moving car onto the street, dragging her until she was able to free herself.

⁷⁵ <https://endsexualexploitation.org/reddit/>

145. After the relationship ended, Jane Doe 1 learned from a mutual friend that her ex-boyfriend had posted multiple videos and images online of the two of them engaging in sexual intercourse. Jane Doe 1 is clearly identifiable in the videos and images, which were posted to various websites, including Reddit, from the period of December 2019 to the present.

146. The postings were accompanied by crude, disparaging, misogynistic and/or racist remarks. As just one example, the posting would often be accompanied with words such as “Asian” and “slut.” As another example, some of the posts encouraged other Reddit users to film themselves masturbating to the images—which again were pictures of an underage Jane Doe 1 taken without her knowledge let alone consent—and then post those videos to Reddit.

147. Jane Doe 1’s trafficker would communicate with other Reddit users regarding the distribution of child pornography. He would send messages to other users relating to sharing photos to get more “exposure”. He would also entice users to perform “tributes” in exchange for sexually explicit videos and images.

148. As soon as she became aware of the posts on Reddit, Jane Doe 1 immediately reported them to the moderators on the individual subreddits. In many of her communications, she made clear that she was the woman in the videos, that she was underage at the time they were made, and that she had never consented to their production, let alone dissemination online. For these reasons, she asked that they be taken down immediately.

149. Each time she brought the matter to Reddit’s attention, it took days before anything was done. The

material would come down only to be reposted within minutes.

150. At some point, Jane Doe 1 learned that Reddit cares more about DMCA violations than child pornography. While she had started off by telling moderators that the content included child pornography, and that it was non-consensual, she noticed she got better responses when she added that there was a copyright issue. That is, Reddit's moderators cared more and responded more quickly to a message flagging a possible copyright concern, than a message flagging non-consensual child pornography.

151. Worse yet, because Reddit has zero policy in place for preventing the posting of this type of content, even after it has been specifically flagged for Reddit, whenever Reddit would finally agree to remove a post, Jane Doe 1's ex-boyfriend would simply post anew, often to the exact same subreddit. When Jane Doe 1 was finally successful in having her ex-boyfriend's Reddit account banned, Reddit permitted him to simply make a new account and he was once again free to post all the child pornography he liked.

152. Because Reddit refused to help, it fell to Jane Doe 1 to monitor no less than 36 subreddits—that she knows of—which Reddit allowed her ex-boyfriend to repeatedly use to repeatedly post child pornography. This is despite the fact that, as Reddit well knew, throughout this time her ex-boyfriend uploaded the content from the identical IP address.

153. To be clear, Reddit's refusal to act has meant that for the past several years Jane Doe 1 has been forced to log on to Reddit and spend hours looking through some of its darkest and most disturbing subreddits so that she can locate the posts of her

underage self and then fight with Reddit to have them removed. She does this often, and her effort continues to this day. Despite these incredible efforts, without Reddit's assistance the situation is hopeless.

154. The circulation of the videos and images, and the effort she has had to undertake to both locate them and negotiate with Reddit to have them removed, has caused Jane Doe 1 great anxiety, distress and sleeplessness. She has had recurring thoughts of contemplating suicide and feelings of hopelessness, resulting in withdrawing from school and seeking therapy.

155. Reddit financially benefitted from Jane Doe 1's trafficking in the form of increased traffic to the subreddits on which Jane Doe 1's videos and images were posted, as well as the increased traffic to Reddit generally, which led to increased advertising revenue for Reddit.

John and Jane Doe No. 2

156. Plaintiffs John and Jane Doe No. 2 are the parents of a 15-year-old girl who bring this suit on her behalf pursuant to Rule 17(c). In mid-2020, their daughter was the victim of a scam perpetrated by a Reddit user on a social media website. The Reddit user (or users) threatened their daughter by claiming he (or they) had compromising photographs of her (or would create fake ones) and manipulated her into sending more sexually explicit photos. The Reddit user(s) extorted her into sending approximately five sexually explicit photos of her various body parts, and obtained additional explicit photos of her from a third party. John and Jane Doe No. 2's daughter is clearly identifiable in these photographs, either because her

face appears in the photos or because they include her social media username.

157. The user(s) subsequently turned to Reddit, posting the child's photos (including identifying information) on both existing subreddits dedicated to child pornography and subreddits he (or they) created for the same purpose.

158. John and Jane Doe No. 2 and their minor child felt upset, devastated, and violated when they discovered the sexually explicit images on Reddit in November 2020, which they realized after their daughter received a barrage of "friend" requests on a social media site whenever her photos, including identifying information, were posted on Reddit.

159. John and Jane Doe No. 2 reported this illegal content of their minor child to subreddit moderators and Reddit administrators. John and Jane Doe No. 2 have primarily reported this content through Reddit's form content reporting link as "sexualization of minors" as well as "impersonation" when the Reddit user(s) posts their daughter's photos pretending to be her.

160. Reddit has made arbitrary and contradictory decisions about whether to remove sexually explicit photos of John and Jane Doe No. 2's daughter from its site. In response to requests to remove the exact same photos, Reddit has at times (a) agreed the photos violate Reddit's content policy, and removed them; (b) agreed the photos violate Reddit's content policy, but failed to remove them despite representing that it "has taken action" to address the illegal content; and/or (c) determined the photos do not violate Reddit's content policy, and declined to remove them.

161. Indeed, despite Reddit having at times responded to John and Jane Doe 2's reports by confirming that the photos violate its content policy and that it "has taken action," more than once, John and Jane Doe No. 2 have discovered that their child's sexually explicit photos remain accessible from the very same link they reported, and which Reddit claimed to have taken action to address.

162. Other times, Reddit has responded to a report about the exact same photo, posted on a different subreddit or reposted on the same subreddit, stating that the content doesn't violate Reddit's content policy. John and Jane Doe No. 2 are thus left to report the illegal content again and hope that Reddit reaches the correct conclusion.

163. Still other times, John and Jane Doe No. 2 have received no response at all from Reddit that it has reviewed the content and decided—one way or the other—whether the illegal, underage content violates its policy. When this happens, John and Jane Doe No. 2 are forced to spend more time filing another complaint about the content.

164. In addition to reporting directly to Reddit administrators using Reddit's form content reporting link, John and Jane Doe No. 2 initially contacted the subreddit moderators where their child's sexually explicit photos had been posted and requested their removal. The moderators' responses were arbitrary, requesting exacting proof that their daughter was a minor and that the content had been posted or uploaded without her permission. At least one moderator observed that his or her actions in removing content from one subreddit did nothing to remove the same content the moderator saw posted on other subreddits.

165. John and Jane Doe No. 2 stopped contacting subreddit moderators when they realized that the Reddit user(s) who extorted their daughter had created his own subreddits, where he (or they) was almost certainly acting as the moderator. John and Jane Doe No. 2 learned that Reddit's non-existent age, identity, and copyright verification procedures led to the perverse situation where they might be reporting CSEM to the person who had extorted and uploaded photographs of their daughter in the first place—facilitating a cycle of re-victimization. They feared that if they continued to contact subreddit moderators, they would unwittingly provide additional identifying information to the Reddit user(s) or allies that could put themselves and their daughter in harm's way.

166. John and Jane Doe No. 2 have reported their daughter's photos to Reddit as illegal, underage content upwards of 100 times.

167. John and Jane Doe No. 2 have banded together with a group of other parents whose children were also extorted by the same Reddit user(s) on social media to search for and report illegal photos of their minor children posted on Reddit and other sites. Those other parents include John and Jane Doe No. 3, who have repeatedly reported photos of John and Jane Doe No. 2's daughter to Reddit, with similarly arbitrary responses from Reddit. Collectively, the parents have reported photos of John and Jane Doe No. 2's daughter to Reddit hundreds of times in the last seven months.

168. Because Reddit has zero policy in place for preventing the posting of this type of content, even after it has been specifically flagged for Reddit, whenever Reddit would finally agree to remove a post featuring CSEM of John and Jane Doe No. 2's daughter, the Reddit user(s) would simply post anew,

often to the exact same subreddit. To this day, every time John and Jane Doe No. 2 succeed in convincing Reddit to remove their child's sexually explicit photos from its website, the Reddit user(s) typically re-posts them within a day, sometimes to the same subreddit and sometimes using the same username or account. John and Jane Doe No. 2's daughter's photos have been posted or uploaded to Reddit nearly every day for the last seven months. Because of Reddit's non-existent policies to prevent this type of content and conduct, it has fallen on John and Jane Doe No. 2 to find the new posts and once again fight to have them removed. In addition, John and Jane Doe No. 2 continue to have to fight with Reddit to have posts removed when Reddit refuses to remove them or when Reddit claims it has taken action when in fact, its lax policies and procedures enable the Reddit user(s) to circumvent Reddit's rules by (for example) deleting a username or hiding a post temporarily.

169. Because Reddit refuses to help, it has fallen to John and Jane Doe No. 2, as well as a group of parents working on their behalf, to search for and monitor dozens of subreddits—that they know of—which Reddit allows the Reddit user(s) to repeatedly use to repeatedly post child pornography. These parents, including John and Jane Doe No. 2, spend hours searching for content of their daughters on Reddit, then fighting to have it removed. These parents, including John and Jane Doe No. 2, have discovered that the Reddit user(s) repeatedly posts CSEM content to Reddit featuring well over 100 additional underage girls, and the parents have repeatedly reported this illegal content to Reddit as well. Reddit has provided similarly arbitrary and unhelpful responses to these complaints. To be clear, Reddit's refusal to act has meant that for the past seven months John and Jane

Doe No. 2, and other parents working on their behalf, have been forced to log on to Reddit and spend hours looking through some of its darkest and most disturbing subreddits to locate sexually explicit images of their underage daughter and then fight (often unsuccessfully) with Reddit to have them removed. At times, John and Jane Doe No. 2 and other parents working on their behalf have sent CSEM featuring their daughters to NCMEC, which has successfully persuaded Reddit to remove certain content. These efforts continue to this day. Despite these incredible efforts, without Reddit's proactive assistance, the situation is endless and hopeless.

170. When John and Jane Doe No. 2, the other parents working on their behalf, or NCMEC, are successful in persuading Reddit to remove the illegal, underage content of their daughter, the photos are typically re-posted or re-uploaded to Reddit within a day and the harrowing process starts again.

171. John and Jane Doe No. 2 also have reported the Reddit user(s) who posts images of their daughter. Only very rarely has this resulted in Reddit banning the user(s). But with Reddit's lax age, identity, and copyright verification procedures, the Reddit user(s) is able to make another account in minutes and resume his (or their) vicious campaign against John and Jane Doe No. 2's daughter by posting her sexually explicit photos on Reddit again and again.

172. The limited times John and Jane Doe No. 2 were successful in having the user's Reddit account banned, he has, within a day, made a new Reddit account where he was once again free to post all the child pornography he liked.

173. The circulation of the images, and the extreme efforts they have had to undertake to both locate them and negotiate with Reddit, or even contact NCMEC to have them removed, have caused John and Jane Doe No. 2 and their daughter great anxiety, distress and sleeplessness. John and Jane Doe No. 2, and in particular their minor daughter, have been psychologically and emotionally distressed by the toll of repeatedly contacting Reddit to remove the illegal content of their child and embarrassed, upset, and humiliated by the knowledge that her images continue to appear on Reddit. Reddit's inconsistent responses to the exact same CSEM content of their daughter uploaded again and again to Reddit's site has further contributed to the emotional distress of John and Jane Doe No. 2 and their minor daughter, because they have no comfort that Reddit will act appropriately, or decisively, to eliminate the content from its site or prevent its appearance in the first place. John and Jane Doe No. 2 and their daughter fear for their daughter's safety given the identifying information about her that is repeatedly posted on Reddit.

174. Reddit financially benefitted from the trafficking of John and Jane Doe No. 2's daughter in the form of increased traffic to the subreddits on which John and Jane Doe No. 2's daughter's images were posted, as well as the increased traffic to Reddit generally, which led to increased advertising revenue for Reddit.

John and Jane Doe No. 3

175. Plaintiffs John and Jane Doe No. 3 are the parents of a 15-year-old girl who bring this suit on her behalf pursuant to Rule 17(c). In mid-2020, when their daughter was 14 years-old, their daughter was the victim of a scam perpetrated by a Reddit user (or users) on a social media website. The Reddit user(s)

obtained three sexually explicit photos of their daughter from a third party and tried to extort John and Jane Doe No. 3's daughter into sending him (or them) additional photos. She refused to send him (or them) additional photos.

176. The users subsequently turned to Reddit, posting the child's sexually explicit photos (including identifying information) on both existing subreddits dedicated to child pornography and subreddits he (or they) created for the same purpose. John and Jane Doe No. 3's daughter is clearly identifiable in the photographs, which also include her social media username.

177. John and Jane Doe No. 3 and their minor daughter felt upset, devastated, and violated when they discovered the sexually explicit images on Reddit in November 2020, which they realized after their daughter received a barrage of "friend" requests on a social media site whenever her photos, including identifying information, were posted on Reddit.

178. John and Jane Doe No. 3 reported this illegal content of their minor child to sub-reddit moderators and Reddit administrators. John and Jane Doe No. 3 have reported this content as "sexualization of minors" as well as "targeted harassment," or "impersonation" when the Reddit user(s) posts their daughter's photos pretending to be her.

179. Similar to John and Jane Doe No. 2's interactions with Reddit, Reddit makes arbitrary and contradictory decisions about whether to remove sexually explicit photos of John and Jane Doe No. 3's daughter. In response to requests to remove the exact same photos, Reddit has at times (a) agreed the photos violate Reddit's content policy, and removed them; (b) agreed the photos violate Reddit's content policy, but

failed to remove them despite representing that it “has taken action” to address the illegal content; and/or (c) determined the photos do not violate Reddit’s content policy, and declined to remove them.

180. Indeed, despite Reddit having at times responded to John and Jane Doe No. 3’s reports by confirming that the photos violate its content policy and that it “has taken action,” more than once, John and Jane Doe No. 3 have discovered that their daughter’s sexually explicit photos remain accessible from the very same link they reported, and which Reddit claimed to have taken action to address.

181. Other times, Reddit has responded to a report about the exact same photo, posted on a different sub-reddit or reposted on the same sub-reddit, stating that the content doesn’t violate Reddit’s content policy. John and Jane Doe No. 3 are thus left to report the illegal content again and hope that Reddit reaches the correct conclusion.

182. Still other times, John and Jane Doe No. 3 receive no response at all from Reddit that it has reviewed the content and decided—one way or the other—whether the illegal, underage content violates its policy. When this happens, John and Jane Doe No. 3 must file another complaint about the content.

183. In response to some of their reports, John and Jane Doe No. 3 have received an automatic response that due to the heavy volume of reports, Reddit will take some time to get back to them, but in some cases Reddit never responds.

184. John and Jane Doe No. 3 have learned that sometimes, the Reddit user(s) who posted or uploaded the CSEM content featuring their daughter have deleted themselves and/or been banned, while leaving

behind the CSEM content the user(s) uploaded. When this happens, the illegal photos remain available on Reddit, but—because of Reddit’s lax reporting—its systems indicate that the CSEM content John and Jane Doe No. 3 reported has been dealt with, when in reality it is still accessible on Reddit’s site.

185. John and Jane Doe No. 3 spend, on average, 2.5 hours each day scouring Reddit for CSEM content of their child as well as the children of John and Jane Doe No. 2, Jane Doe No. 4, John and Jane Doe No. 5, and Jane Doe No. 6, among others. This includes daily reporting of offensive, illegal content of these children for the past seven months.

186. In addition to reporting directly to Reddit administrators using Reddit’s form content reporting link, John and Jane Doe No. 3 initially contacted the subreddit moderators for subreddits where their daughter’s sexually explicit photos had been posted, and requested their removal. This approach sometimes, but not always, led to the removal of images depicting their daughter.

187. John and Jane Doe No. 3 stopped contacting subreddit moderators when they realized that the Reddit user(s) who attempted to extort their daughter had created his own subreddits where he was almost certainly acting as the moderator. John and Jane Doe No. 3 learned that Reddit’s non-existent age, identity, and copyright verification procedures led to the perverse situation where they might be reporting CSEM to the person who had extorted photos of their daughter in the first place—facilitating a cycle of re-victimization. They feared that if they continued to contact subreddit moderators, they would unwittingly provide additional identifying information to the

Reddit user(s) or allies that could put themselves and their daughter in harm's way.

188. Additionally, John and Jane Doe No. 3 learned that subreddit moderators had the ability to and in some instances did block them from viewing certain subreddits containing their child's sexually explicit photographs. In these instances, when John and Jane Doe No. 3 tried to access the links it seemed they did not exist, when in reality the CSEM content was still on Reddit.

189. In John and Jane Doe No. 3's experience, at times subreddit posts would be taken down after their reports only to return a few hours later with the original posting date. On information and belief, they believe in those cases Reddit asked the moderator of those subreddits to remove the content, but since the moderator appears to be the Reddit user(s) who extorted photographs from John and Jane Doe No. 3's child in the first place, he (or they) simply hid the posts temporarily before putting them back up on Reddit's site.

190. John and Jane Doe No. 3 previously had some success reporting directly to "modmail," which was a way to contact Reddit administrators who were the moderators of an archived subreddit called reddit.com. In the last few months, Reddit has disabled that reporting channel so that John and Jane Doe No. 3 are limited to reporting CSEM content via the form complaints described above.

191. Previously, John and Jane Doe No. 3 would on occasion receive responses to their "modmail" reports from Reddit's "anti-evil" team, which enabled them to respond to an employee with their requests to remove CSEM content. In the last few months, they have

received responses telling them not to report this way but rather to use Reddit's form complaint channels described above.

192. John and Jane Doe No. 3 have reported their daughter's photos to Reddit as illegal, underage sexually explicit content upwards of 100 times.

193. John and Jane Doe No. 3 have banded together with a group of other parents whose children were also victimized by the same Reddit user(s) on social media to search for and report illegal photos of their minor children posted on Reddit and other sites. Those other parents include John and Jane Doe No. 2, who have repeatedly reported photos of John and Jane Doe No. 3's daughter to Reddit, with similarly arbitrary responses from Reddit. Collectively, these parents have reported photos of John and Jane Doe No. 3's daughter to Reddit hundreds of times in the last seven months.

194. Because Reddit has zero policy in place for preventing the posting of this type of content, even after it has been specifically flagged, whenever Reddit would finally agree to remove a post featuring CSEM of John and Jane Doe No. 3's daughter, the Reddit user(s) would simply post anew, often to the exact same sub-reddit. To this day, every time John and Jane Doe No. 3 succeed in convincing Reddit to remove their child's sexually explicit photos from its website, the Reddit user(s) typically re-posts them within a day, sometimes to the same subreddit and sometimes using the same username or account. John and Jane Doe No. 3's child's photos have been posted or uploaded to Reddit nearly every day for the last eight months. Because of Reddit's non-existent policies to prevent this type of content and conduct, it has fallen on John and Jane Doe No. 3 to find the new posts and

once again fight (sometimes unsuccessfully) to have them removed.

195. Because Reddit refuses to help, it has fallen to John and Jane Doe No. 3, as well as a group of parents working on their (and their daughter's) behalf, to search for and monitor dozens of subreddits—that they know of—which Reddit allows the Reddit user(s) to repeatedly use to repeatedly post child pornography. These parents, including John and Jane Doe No. 3, spend hours searching for content of their daughters on Reddit, then fighting to have it removed. These parents, including John and Jane Doe No. 3, have discovered that the Reddit user(s) repeatedly posts CSEM content to Reddit featuring well over 100 additional underage girls, and the parents have repeatedly reported this illegal content to Reddit as well. Reddit has provided similarly arbitrary and unhelpful responses to these complaints.

196. To be clear, Reddit's refusal to act has meant that for the past seven months John and Jane Doe No. 3, and other parents working on their (and their daughter's) behalf, have been forced to log on to Reddit and spend hours looking through some of its darkest and most disturbing subreddits to locate sexually explicit images of their underage daughter and then fight (often unsuccessfully) with Reddit to have them removed. At times, John and Jane Doe No. 3 and other parents working on their (and their daughter's) behalf have sent CSEM to NCMEC, which has successfully persuaded Reddit to remove certain content of their daughter. These efforts continue to this day. Despite these incredible efforts, without Reddit's proactive assistance, the situation is endless and hopeless.

197. When John and Jane Doe No. 3, the other parents working on their (and their daughter's) behalf,

or NCMEC, are successful in persuading Reddit to remove the illegal, underage content of their daughter, the photos are typically re-posted or re-uploaded to Reddit within a day and the harrowing process starts again.

198. John and Jane Doe No. 3 also have reported the Reddit user(s) who posts images of their daughter. Only very rarely has this resulted in Reddit banning the user. But with Reddit's lax age, identity, or copyright verification procedures, the user is able to make another account in minutes and resume his (or their) vicious campaign against John and Jane Doe No. 3's daughter by posting her sexually explicit photos on Reddit again and again.

199. The limited times John and Jane Doe No. 3 were successful in having the user's Reddit account banned, he (or they) has, within a day, made a new account where he (or they) was once again free to post all the child pornography he (or they) liked.

200. The circulation of the images, and the extreme efforts they have had to undertake to both locate them and negotiate with Reddit to have them removed, have caused John and Jane Doe No. 3 and their child great anxiety, distress and sleeplessness. John and Jane Doe No. 3 and their minor daughter have been psychologically and emotionally distressed by the toll of repeatedly contacting Reddit to remove the illegal content of their daughter, and embarrassed, upset, and humiliated by the knowledge that her images continue to appear on Reddit. Reddit's inconsistent responses to the exact same CSEM content of their daughter uploaded again and again to Reddit's site has further contributed to the emotional distress of John and Jane Doe No. 3 and their minor daughter, because they have no comfort that Reddit will act

appropriately, or decisively, to eliminate the content from its site or prevent its appearance in the first place.

201. Reddit financially benefitted from the trafficking of John and Jane Doe No. 3's daughter in the form of increased traffic to the subreddits on which John and Jane Doe No. 3's daughter's images were posted, as well as the increased traffic to Reddit generally, which led to increased advertising revenue for Reddit.

Jane Doe No. 4

202. Plaintiff Jane Doe No. 4 is the mother of a 17-year-old girl who brings this suit on her behalf pursuant to Rule 17(c).

203. In mid-2020, when Jane Doe No. 4's daughter was 16 years old, she was manipulated by the same Reddit user(s) as the daughters of John and Jane Doe No. 2 and John and Jane Doe No. 3. Jane Doe No. 4's daughter was extorted into sending the Reddit user(s) approximately six sexually explicit photos of herself, including one that the user(s) has made into an animated "gif" that he posts repeatedly on Reddit, in addition to still photos. Jane Doe No. 4's daughter's face appears in some of these photos, and her social media username is included with these photos.

204. In or around the end of December 2020, Jane Doe No. 4 and her minor child felt upset, devastated, and violated when they discovered the sexually explicit photos on Reddit, which they realized after her daughter received a barrage of "friend" requests on a social media site whenever the Reddit user(s) posted her photos, including identifying information, on Reddit. At any given time, these photos are often posted on multiple subreddits.

205. Jane Doe No. 4 has reported the illegal, underage sexually explicit content featuring her daughter to Reddit approximately 20 times. Nearly every time, Reddit has denied her request to remove the content, stating that it doesn't violate Reddit's content policy.

206. Jane Doe No. 4, along with other parents working on her (and her daughter's) behalf, including John and Jane Doe No. 2 and John and Jane Doe No. 3, have reported this same content of her daughter to Reddit upwards of 100 times.

207. Similar to these other parents' experience with Reddit, Jane Doe No. 4's interactions with Reddit (and other parents' interactions on her and her child's behalf) have revealed that Reddit makes arbitrary and contradictory decisions about whether to remove photos of Jane Doe No. 4's daughter.

208. At times, other parents working on Jane Doe No. 4's (and her daughter's) behalf have sent links of the CSEM to NCMEC, which has successfully persuaded Reddit to remove the content of her daughter.

209. When Jane Doe No. 4, the other parents working on her behalf, or NCMEC are successful in persuading Reddit to remove the illegal, underage content of her daughter, the photos are typically re-posted or re-uploaded to Reddit—often within a day—and the harrowing process starts again.

210. The circulation of the images, and the extreme efforts they have had to undertake to both locate them and negotiate with Reddit to have them removed, have caused Jane Doe No. 4 and her child great anxiety, emotional distress and sleeplessness. Jane Doe No. 4 and her family fear for their safety given the

identifying information about her daughter that the Reddit user(s) posts on Reddit over and over again. Jane Doe No. 4 and her family have incurred damages to enhance security at their home and Jane Doe No. 4 and her daughter have been psychologically and emotionally distressed by the toll of repeatedly contacting Reddit to remove the illegal content of Jane Doe No. 4's daughter, and embarrassed, upset, and humiliated by the knowledge that her sexually explicit images continue to appear on Reddit. As a result of this situation, Jane Doe No. 4's daughter has suffered psychological and emotional distress and, as a result, lost her position in an extracurricular activity that she once enjoyed. Reddit's inconsistent responses to the exact same CSEM content of Jane Doe No. 4's daughter uploaded again and again to Reddit's site has further contributed to the emotional distress of Jane Doe No. 4 and her minor daughter, because they have no comfort that Reddit will act appropriately, or decisively, to eliminate the content from its site or prevent its appearance in the first place.

211. Reddit financially benefitted from the trafficking of Jane Doe No. 4's daughter in the form of increased traffic to the subreddits on which Jane Doe No. 4's daughter's images were posted, as well as the increased traffic to Reddit generally, which led to increased advertising revenue for Reddit.

John and Jane Doe No. 5

212. Plaintiffs John and Jane Doe No. 5 are the parents of a 15-year-old girl who bring this suit on her behalf pursuant to Rule 17(c).

213. In 2020, the same Reddit user(s) who terrorized the children of John and Jane Doe No. 2, John and Jane Doe No. 3, Jane Doe No. 4, and Jane Doe No.

6 obtained (from a third party) two sexually explicit photos of John and Jane Doe No. 5's child, in which she was 13 years old.

214. The Reddit user (or users) has posted these photos of John and Jane Doe No. 5's child on Reddit. John and Jane Doe No. 5's child is clearly identifiable in these photographs because her face appears in these photos, and they include her social media username.

215. In the fall of 2020, John and Jane Doe No. 5 and their minor child felt upset, devastated, and violated when they learned that these sexually explicit photos appeared on Reddit. Like the other parent-Plaintiffs, each time John and Jane Doe No. 5's daughter's photos were posted on Reddit, she would see a spike in "friend" requests on another social media platform from adult males who found her photo and contact information on Reddit.

216. John and Jane Doe No. 5 have reported the illegal, underage sexually explicit content featuring their daughter to Reddit approximately five to ten times. Some of those times, Reddit has denied the request to remove the content, stating that it doesn't violate Reddit's content policy.

217. John and Jane Doe No. 5, along with other parents working on their behalf, including John and Jane Doe No. 2 and John and Jane Doe No. 3, have reported this same content of their daughter to Reddit at least 100 times.

218. Similar to these other parents' experience with Reddit, John and Jane Doe No. 5's interactions with Reddit (and other parents' interactions on their child's behalf) have revealed that Reddit makes arbitrary and contradictory decisions about whether to remove sexually explicit photos of John and Jane Doe No. 5's

daughter—sometimes removing the content while other times stating that it doesn't violate Reddit's content policy, and sometimes failing to respond at all.

219. At times, other parents working on behalf of John and Jane Doe No. 5 (and their daughter) have notified NCMEC about the illegal, underage content of John and Jane Doe No. 5's daughter, which has successfully persuaded Reddit to remove the content of their daughter. These efforts continue to this day. Despite these incredible efforts, without Reddit's proactive assistance the situation is endless and hopeless.

220. When John and Jane Doe No. 5, the other parents working on their (and their daughter's) behalf, or NCMEC are successful in persuading Reddit to remove the illegal, underage content of their daughter, the photos are typically re-posted or re-uploaded to Reddit within a day and the harrowing process starts again.

221. The circulation of the images, and the extreme efforts they have had to undertake to both locate them and negotiate with Reddit to have them removed, have caused John and Jane Doe No. 5 and their child great anxiety, emotional distress and sleeplessness. John and Jane Doe No. 5 and their minor child have been psychologically and emotionally distressed by the toll of repeatedly contacting Reddit to remove the illegal content of their daughter, and embarrassed, upset, and humiliated by the knowledge that her images continue to appear on Reddit. As a result of this situation, John and Jane Doe No. 5's daughter has been diagnosed with PTSD brought on by the ongoing trauma arising from these events and is in active treatment with a medical professional. In addition to receiving therapy, John and Jane Doe No. 5's daughter

has withdrawn from friends and extracurricular activities and has suffered academically. In June 2021, John and Jane Doe No. 5 were forced to withdraw their daughter—previously a strong student—from her high school due to failing academic performance as a result of her ongoing trauma due to her victimization via child sex trafficking. Reddit’s inconsistent responses to the exact same CSEM content of their daughter uploaded again and again to Reddit’s site has further contributed to the emotional distress of John and Jane Doe No. 5 and their minor daughter, because they have no comfort that Reddit will act appropriately, or decisively, to eliminate the content from its site or prevent its appearance in the first place.

222. Reddit financially benefitted from the trafficking of John and Jane Doe No. 5’s daughter in the form of increased traffic to the subreddits on which John and Jane Doe No. 5’s daughter’s images were posted, as well as the increased traffic to Reddit generally, which led to increased advertising revenue for Reddit.

Jane Doe No. 6

223. Plaintiff Jane Doe No. 6 is the mother of a 14-year-old girl who brings this suit on her behalf pursuant to Rule 17(c).

224. In late fall of 2020, Jane Doe No. 6 and her minor child felt upset, shocked, and violated when they learned that the Reddit user(s) who obtained illegal, underage images of the children of John and Jane Doe No. 2, John and Jane Doe No. 3, Jane Doe No. 4, and John and Jane Doe No. 5, had also obtained (from a third party) a sexually explicit photograph of Jane Doe No. 6’s daughter and posted it on Reddit.

225. The Reddit user (or users) has repeatedly posted or uploaded the sexually explicit photograph of

Jane Doe No. 6's daughter on Reddit, identifying her through her social media username.

226. Other parents working on Jane Doe No. 6's (and her daughter's) behalf, including John and Jane Doe No. 2 and John and Jane Doe No. 3, have reported this content of her daughter to Reddit approximately 80-100 times. These reports have revealed that Reddit makes arbitrary and contradictory decisions about whether to remove photos of Jane Doe No. 6's daughter—sometimes removing the sexually explicit content while other times stating that it doesn't violate Reddit's content policy, and sometimes failing to respond at all.

227. At times, other parents working on Jane Doe No. 6's (and her daughter's) behalf have notified NCMEC of the illegal, underage content of her daughter, which has successfully persuaded Reddit to remove the content.

228. When the other parents working on Jane Doe No. 6's (and her daughter's) behalf or NCMEC are successful in persuading Reddit to remove the illegal, underage content of Jane Doe No. 6's daughter, the photos are typically re-posted or re-uploaded to Reddit—often within a day—and the harrowing process starts again.

229. The circulation of the images and the knowledge that the images continue to appear on Reddit has caused Jane Doe No. 6 and her child to feel upset, embarrassed, and violated. Reddit's inconsistent responses to the exact same CSEM content of their daughter uploaded again and again to Reddit's site has further contributed to the emotional distress of Jane Doe No. 6 and her minor daughter, because they have no comfort that Reddit will act appropriately, or

decisively, to eliminate the content from its site or prevent its appearance in the first place.

230. Reddit financially benefitted from the trafficking of Jane Doe No. 6's daughter in the form of increased traffic to the subreddits on which Jane Doe No. 6's daughter's images were posted, as well as the increased traffic to Reddit generally, which led to increased advertising revenue for Reddit.

231. Sexually explicit images of Plaintiffs (and/or their daughters) have appeared and/or been promoted on at least the following subreddits:

- r/newreddits
- r/TheDirtySnapchat
- r/nude_snapchat
- r/xsmallgirls
- r/tits
- r/Nude_Selfie
- r/DadWouldBeProud
- r/boobs
- r/Babes
- r/aa_cups
- r/smallboobs
- r/pussy
- r/pussyrating
- r/ThickThighs
- r/Slut
- r/LegalTeensGW
- r/FreeKarma4U

- r/PickOne
- r/booty_queens
- r/ratemyboobs
- r/u_jersey-gurl
- r/butt
- r/RateMyAss
- r/UpvotedBecauseButt
- r/slutsofsnapchat
- r/CollegeAmateurs
- r/collegesluts
- r/Adult_Social_Network
- r/tanlines
- r/Nudes
- r/Nipples
- r/OnOff
- r/Nudes_girls
- r/DaughterTraining
- r/VoyeurBeachFun
- r/BikiniBodies
- r/piercedtits
- r/TotalBabes
- r/bootypetite
- r/HungryButts
- r/Ratemy pussy
- r/BoobsAndTities

- r/whooties
- r/JizzedToThis
- r/Flashing
- r/FlashingGirls
- r/homegrowntits
- r/PetiteNSFW
- r/DarkAngels
- r/fitgirls
- r/RealPublicNudity
- r/BlackGirlsNSFW
- r/IRLgirls
- r/legs
- r/tongue
- r/gettingherselfoff
- r/RubbingHerPussy
- r/pawg
- r/ThotClub
- r/PetiteGirls
- r/petite
- r/jilling
- r/twerking
- r/Busty
- r/PublicFlashing
- r/Fingering
- r/Amateur_gonewild

- r/Flashing_gonewild
- r/FlashingGW
- r/Amateurs_GoneWild
- r/Amateurs_nsfww
- r/Snapchat_GoneWild
- r/Gifs_gonewild
- r/DegradingHoles
- r/Cuckik
- r/CockTributes
- r/NSFW_Tributes

232. Many of these subreddits have high levels of user engagement, featuring hundreds of new posts on a given day, and thousands of upvotes across posts.

233. Reddit had knowledge of the specific CSEM featuring sexually explicit images of Plaintiffs (and/or their daughters) on Reddit's website, including because Plaintiffs (and others) reported those images to Reddit, including reporting CSEM posts to Reddit that Reddit decided not to remove. Moreover, as discussed above, users have repeatedly commented on the presence of sexually explicit images that appear to depict minors on subreddits that have also featured sexually explicit images of Plaintiffs and/or their daughters.

234. Illegal CSEM featuring sexually explicit images of Plaintiffs (and/or their daughters) on Reddit's website benefits both Reddit and the Reddit users that post them.

235. For example, Reddit has placed advertisements on one or more of the subreddits, listed above,

that have also featured and/or promoted sexually explicit images of one or more Plaintiffs and/or their daughters.

236. Sexually explicit content featuring children also drives traffic to Reddit's website. This is an independent reason that it benefits Reddit, which relies on its growing number of users to attract advertisers and investors.

237. CSEM also benefits the Reddit users that share it on Reddit. For example, on information and belief, traffickers regularly use Reddit to purchase CSEM anonymously.

238. As another example, sexually explicit images of Plaintiffs (and/or their daughters) have been featured on the subreddit r/FreeKarma4U, a subreddit for users to solicit and provide upvotes to posts, which in turn increase their "karma" rating and allow them greater Reddit posting privileges. This subreddit includes frequent posts (dozens per day) featuring nudity. Although Reddit appears to automatically blur images of nudity featured on r/FreeKarma4U, the unblurred images are easily viewable by clicking on the photos to view the content.

CLASS ACTION ALLEGATIONS

239. Plaintiffs bring this action on their own behalf (and/or on behalf of their daughters), and on behalf of a class pursuant to Rule 23(a), (b)(2) and (b)(3) of the Federal Rules of Civil Procedure. The Class is defined as:

all persons who were under the age of 18 when they appeared in a sexually explicit video or image that has been uploaded or otherwise made available for viewing on any

website owned or operated by Reddit, Inc. in the last ten years.

240. Plaintiff Jane Doe 1 also brings this action on behalf of:

all persons residing in California who were under the age of 18 when they appeared in a sexually explicit video or image that has been uploaded or otherwise made available for viewing on any website owned or operated by Reddit, Inc. in the last ten years (the “California Subclass”).

241. Plaintiffs Jane Does No. 2-6 and John Does No. 2, 3, and 5 also bring this action on behalf of:

all persons residing in New Jersey who were under the age of 18 when they appeared in a sexually explicit video or image that has been uploaded or otherwise made available for viewing on any website owned or operated by Reddit, Inc. in the last ten years (the “New Jersey Subclass”).

242. For these purposes, “sexually explicit” means the visual depiction of one or more actual or simulated sex acts, including sexual intercourse, anal intercourse, masturbation, bestiality, masochism, fellatio, cunnilingus, partial or full nudity, and/or lascivious exhibition of the anus, genitals, or pubic area of any person.

243. The members of the Class are so numerous that joinder of all members is impracticable. While the exact number of Class members is unknown to Plaintiffs at this time and can only be ascertained through appropriate discovery, Plaintiffs believe that there are many thousand members of the Class.

Absent members of the Class may be notified of the pendency of this action using a form of notice similar to that customarily used in purchaser class actions.

244. Plaintiffs' claims are typical of the claims of the members of the Class, as all members of the Class were similarly affected by Defendant's wrongful common course of conduct complained of herein.

245. Plaintiffs will fairly and adequately protect the interests of the members of the Class and have retained counsel competent and experienced in class action litigation.

246. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

- (a) Whether Defendant knowingly benefitted from child trafficking;
- (b) Whether user-generated uploads on Defendant's websites feature underage victims;
- (c) Whether Defendant knew or should have known that there were videos and/or images of underage victims on its websites;
- (d) Whether Defendant's age verification system prevents users from uploading child pornography; and
- (e) Whether Defendant has generated revenue from child trafficking.

247. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy, since joinder of all members is impracticable. The damages suffered by individual Class

members may be relatively small, the expense and burden of individual litigation makes it virtually impossible as a practical matter for members of the Class to redress individually the wrongs done to them. There will be no difficulty in the management of this action as a class action.

FIRST CLAIM FOR RELIEF

TRAFFICKING VICTIMS PROTECTION ACT

18 U.S.C. 44 1591, 1595

248. Plaintiffs incorporate each and every allegation set forth above as if fully set forth herein.

249. Defendant knowingly used the instrumentalities of interstate commerce to violate 18 U.S.C. § 1595.

250. Defendant knowingly benefits from child trafficking by benefitting financially from videos/images viewable on its websites that depict victims who are underage. Defendant makes substantial profits with almost three billion ad impressions each day, many of which are attributable to content posted of underage victims.

251. Defendant recruits, entices, harbors, transports, provides, obtains, advertises, maintains, patronizes, or solicits videos and images depicting CSEM on its websites.

252. Defendant knew or should have known that the videos and images featured on their websites depicted CSEM. Defendant has repeatedly been made aware of the child pornography on its websites by victim's complaints, third-party reporting, advocacy groups, government investigations, and Plaintiffs themselves. Defendant knew or should have known that its websites are known for child sex trafficking based on all of this information.

253. Defendant monetized child trafficking on its websites through revenues generated by subscriptions and advertisements.

254. Rather than take action to combat the problem of child sex trafficking, Defendant intentionally catered its websites to facilitate sex trafficking and make it easier for traffickers to monetize underage victims in commercial sex acts.

255. Defendant not only maintained affiliations with sex traffickers by enabling the posting of child pornography on its websites, it has strengthened those affiliations by making it easier to connect traffickers with those who want to view child pornography.

256. Defendant has repeatedly featured victims who have not attained the age of 18 years in videos/images on its websites. The victims have engaged in commercial sex acts because all of the videos featured on its websites generate revenue for Defendant and/or traffickers and depict sex acts. Moreover, many of these victims (like the daughters of several Plaintiffs) were extorted for their photographs in the first place.

257. Defendant had a reasonable opportunity to observe the victims featured on its websites, including because they and their moderators had the opportunity to view all of the content posted thereon.

258. Defendant's conduct has harmed the Class by causing physical, psychological, financial, and reputational harm.

SECOND CLAIM FOR RELIEF
VIOLATION OF DUTY TO REPORT CHILD
SEXUAL ABUSE MATERIAL

18 U.S.C. § 2258A

259. Plaintiffs incorporate each and every allegation set forth above as if fully set forth herein.

260. As an “electronic communication service provider,” Defendant’s websites are a “provider” under 18 U.S.C. § 2258E(6) and 2258A.

261. Defendant obtained actual knowledge that there was online sexual exploitation material of children being published on their websites, which was an apparent violation of 18 U.S.C. § 2252.

262. Defendant knowingly engaged in intentional misconduct by ignoring clear notice of the presence of actual online sexual exploitation material of children. 18 U.S.C. § 2258B(b)(1).

263. Defendant’s conduct constitutes a failure to act with reckless disregard to a substantial risk of causing physical injury without physical justification. 18 U.S.C. § 2258B(b)(2)(B).

264. Defendant’s conduct constitutes a failure to act for a purpose unrelated to the performance of any responsibility or function under 18 U.S.C. §§ 2258B(b)(2)(C).

265. Defendant’s conduct has seriously harmed the Class, including without limitation, physical, psychological, financial, and reputational harm.

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THIRD CLAIM FOR RELIEF
RECEIPT AND DISTRIBUTION OF
CHILD PORNOGRAPHY

18 U.S.C. § 2252A

266. Plaintiffs incorporate each and every allegation set forth above as if fully set forth herein.

267. Defendant knowingly and intentionally offers, operates, maintains pornography and advertises on its websites. Defendant also knowingly and intentionally encourages traffic on its websites and encourage advertisers to purchase advertisement space thereon.

268. Defendant knowingly received and distributed child pornography depicting Plaintiffs (and/or their daughters) and the Class on its websites.

269. Defendant's receipt and distribution of child pornography occurred in or affected interstate or foreign commerce.

270. As a proximate result of Defendant's violation of 18 U.S.C. § 2252A, Plaintiffs and the Class have suffered serious harm including, without limitation, physical, psychological, financial, and reputational harm.

271. Defendant's conduct was malicious, oppressive, or in reckless disregard of Plaintiffs' rights and the Class' rights and Plaintiffs and the Class are entitled to injunctive relief, compensatory and punitive damages, and the costs of maintaining this action. 18 U.S.C. § 2252A(f).

272. Defendant's liability for knowingly violating 18 U.S.C. § 2252A is not limited by 47 U.S.C. § 230 because nothing in Section 230 "shall be construed to impair the enforcement of [] chapter [] 110 (relating

to sexual exploitation of children) [] or any other Federal criminal statute.” 47 U.S.C. § 230(e)(1).

FOURTH CLAIM FOR RELIEF

**DISTRIBUTION OF PRIVATE SEXUALLY
EXPLICIT MATERIALS,
CAL. CIV. CODE 4 1708.85**

(On behalf of California Subclass)

273. Plaintiffs incorporate each and every allegation set forth above as if fully set forth herein.

274. Defendant intentionally distributed child pornography.

275. Plaintiffs (and/or their daughters) and the Class did not consent to the online distribution of the videos and images depicting them.

276. Defendant knew Plaintiffs (and/or their daughters) and the Class had a reasonable expectation that the videos depicting them would remain private.

277. The images depicted on Reddit exposed intimate body parts of Plaintiffs (and/or their daughters) and the Class.

278. Plaintiffs and the Class were harmed by Defendant’s knowing and intentional distribution of child pornography and Defendant’s conduct was a substantial factor in causing harm to Plaintiffs and the Class.

FIFTH CLAIM FOR RELIEF

**VIOLATION OF CALIFORNIA’S UNFAIR
COMPETITION LAW (“UCL”)**

Cal. Bus. & Prof. Code 4 17200

(On behalf of California Subclass)

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279. Plaintiffs incorporate each and every allegation set forth above as if fully set forth herein.

280. Defendant has violated the UCL by engaging in unlawful, unfair, and fraudulent business acts and practices.

281. Defendant knowingly had inadequate verification systems in place that enabled users to upload child pornography to Defendant's websites.

282. Defendant's conduct constitutes an unlawful, unfair, and fraudulent business act and practice.

SIXTH CLAIM FOR RELIEF

VIOLATION OF CALIFORNIA'S TRAFFICKING VICTIMS PROTECTION ACT

Cal. Civ. Code 4 52.5

(On behalf of California Subclass)

283. Plaintiffs incorporate each and every allegation set forth above as if fully set forth herein.

284. By knowingly maintaining and profiting from CSEM on its websites, Defendant has caused minors to engage in commercial sex acts.

285. Defendant intends to, and does, distribute CSEM, which depicts minors engaged in and/or simulating sexual conduct, through its websites.

286. Defendant's websites are available all over the country, including in California.

SEVENTH CLAIM FOR RELIEF

VIOLATION OF NEW JERSEY'S CHILD EXPLOITATION LAWS

N.J. Rev. Stat. 4 2A:30B-3

(On behalf of New Jersey Subclass)

287. Plaintiffs incorporate each and every allegation set forth above as if fully set forth herein.

288. Defendant has knowingly received and published, distributed, circulated, disseminated, presented, exhibited, and/or advertised child pornography on its websites.

289. The child pornography published, distributed, circulated, disseminated, presented, exhibited, and/or advertised on Defendant's websites depicts minors engaging in prohibited sexual acts and/or the simulation of such acts.

EIGHTH CLAIM FOR RELIEF

UNJUST ENRICHMENT

290. Plaintiffs incorporate each and every allegation set forth above as if fully set forth herein.

291. Defendant profited off of videos and images depicting Plaintiffs (and/or their daughters) and the Class on Defendant's websites.

292. By permitting users to upload videos and images of Plaintiffs (and/or their daughters) and the Class and profiting from those videos and images, Defendant have become unjustly enriched at the expense of Plaintiffs and the Class in an amount to be determined at trial.

NINTH CLAIM FOR RELIEF

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

293. Plaintiffs incorporate each and every allegation set forth above as if fully set forth herein.

294. Defendant's conduct toward Plaintiffs (and/or their daughters) and the Class, as described herein, was outrageous and extreme.

295. A reasonable person would not expect a company like Defendant to knowingly tolerate child sex trafficking and pornography on its websites. Defendant's callous indifference to the child sexual abuse occurring on its websites goes beyond all possible bounds of decency.

296. Defendant acted with reckless disregard of the likelihood that Plaintiffs (and/or their daughters) and the Class would suffer emotional distress, including humiliation and anxiety. Defendant knew, or recklessly disregarded, that Plaintiffs (and/or their daughters) and the Class wanted and were working to remove the illegal CSEM featuring them on Defendant's websites, but did nothing to help them, and instead ignored them and tacitly encouraged the proliferation of CSEM on its websites.

297. As a direct and proximate result of Defendant's conduct, Plaintiffs (and/or their daughters) and the Class suffered severe emotional distress and are accordingly entitled to appropriate damages.

298. No reasonable person in Plaintiffs' (and/or their daughters') and the Class' situation would be able to adequately endure the distress engendered by Reddit's profit-driven indifference to, and encouragement of, their plight.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment, as follows:

A. Determine that this action is a proper class action under Rule 23 of the Federal Rules of Civil

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Procedure and appointing Plaintiffs' counsel as Class counsel;

B. Award injunctive relief sufficient to bring Defendant's policies and practices in compliance with applicable law;

C. Award compensatory and punitive damages in favor of Plaintiffs and the Class against Defendant for all damages sustained as a result of Defendant's violations of the law, in an amount to be proven at trial, including prejudgment interest thereon;

D. Award Plaintiffs and the Class reasonable attorneys' fees, costs and expenses incurred in this action, including expert fees; and

E. Award such other and further relief as the Court may deem just and proper.

Dated: July 7, 2021

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JURY DEMAND

Pursuant to Fed. R. Civ. P. 38(b), plaintiff demands trial by jury of all of the claims asserted in this complaint so triable.

Dated: July 7, 2021

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