

No. 24-1202

In the
Supreme Court of the United States

JOHN DOE,

Petitioner,

v.

GRINDR INC. AND GRINDR LLC,

Respondents.

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

**MOTION FOR LEAVE TO FILE OUT OF TIME
BRIEF OF PUBLIC HEALTH ADVOCACY
INSTITUTE AS *AMICUS CURIAE*
SUPPORTING PETITIONER**

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Pursuant to Supreme Court Rule 21, *amicus curiae* Public Health Advocacy Institute respectfully requests leave to file the following brief supporting Petitioner in the above-captioned matter. Although *amicus* understands that such motions are not favored, it hopes that the Court will make an exception in this case. In support of the motion, *amicus* states as follows:

This case presents matters of national importance concerning the scope of immunity provided to social media companies under Section 230 of the Communications Decency Act (“CDA”), and whether the immunity afforded under the CDA encompassed the product liability and negligence claims that Petitioner asserted against Respondents in connection with sexual abuse that he suffered as a minor as a result of using Respondents’ adult dating app. Moreover, this case arises against a backdrop where youth exposure to social media has created a growing mental health crisis.

On May 21, 2025, Petitioner filed his petition for a writ of certiorari. On July 18, 2025, this Court requested a response from Respondents by July 18, 2025, thereby, pursuant to Rule 37.2, setting the deadline for *amicus* briefs in support of Petitioner to be filed by August 18, 2025. On July 22, 2025, Respondents filed their motion to extend their deadline to respond from August 18, 2025 to August 26, 2025, which this Court granted on July 24, 2025.

Unfortunately, after the Court granted

Respondents' 10-day extension, *amicus* miscalculated the deadline for briefs in support of the petition as also falling on August 26, 2025. Accordingly, on August 14, 2025, *amicus* notified the parties that it intended to file its brief to comply with the 10-day notice requirements set forth in Rule 37.2(a). Once *amicus* realized that it had miscalculated the deadline to submit its brief, it understood that it would not be able to timely submit its brief to the Court by the August 18, 2025 deadline and remain in compliance with Rule 37.2(a)'s notice provisions. Accordingly, to remain in compliance with the 10-day notice provision, *amicus* instead elected to file this motion and its brief after the expiration of the 10-day period.

Amicus deeply regrets its miscalculation of the applicable deadline and the late filing of its brief. It is *amicus*' hope that, given the critical importance of the legal issues involved, and the severity of the youth mental health crisis (discussed in more detail below), the Court will both (i) allow PHAI's out of time brief and (ii) grant the petition for writ of certiorari.

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INTEREST OF THE AMICUS CURIAE¹

Amicus curiae Public Health Advocacy Institute (“PHAI”) is a nonprofit organization that is affiliated with Northeastern University School of Law and dedicated to using law and policy to protect, defend, and enhance public health. As a legal research and advocacy center focused on public health, PHAI’s goal is to support and enhance a commitment to public health in those that shape public policy through law.

Founded in 1979 with a mission to protect nonsmokers from tobacco smoke exposure, PHAI has since expanded its focus to include issues that affect psychological or behavioral health, such as gun violence prevention, public health tobacco litigation, tobacco policy development, predatory gambling prevention, and social media addiction, as well as issues that impact youth, including the youth marketing of cigarettes, e-cigarettes, and obesogenic foods. PHAI’s focus has always been the overall well-being of the public. PHAI brings decades of combined experience in the public health and law field and will continue to utilize its experience and expertise to continue fighting to advance public health and social justice. PHAI is therefore well-suited to provide this Court with insight.

The present case concerns PHAI because it

¹ Pursuant to rule 37.6, *Amicus Curiae* PHAI certifies that it authored this brief without participation from any party. Other than PHAI, no person, party, or party’s counsel contributed money to fund the preparation or submission of this brief.

raises questions as to whether and what extent online platforms and social media companies may rely upon Section 230 of the Communications Decency Act (“CDA”) to shield themselves from liability for tortious conduct directed at America’s most vulnerable population: children. As this case illustrates, Internet companies’ use of social media platforms to administer and market their platforms can jeopardize the physical safety and psychological well-being of children.

SUMMARY OF ARGUMENT

At the heart of this is appeal is whether the limited liability defense set forth in the “Good Samaritan” provision of 47 U.S.C. § 230 of the CDA (“Section 230”)—a statute that Congress enacted to protect children from harmful content on the Internet—immunized Respondents Grindr Inc. and Grindr LLC (collectively “Grindr”) for channeling Petitioner Doe, a minor, to their app, permitting him to make an account on their platform, and matching him with multiple adult users who then subjected Doe to repeated sexual abuse. The District Court and Ninth Circuit, ignoring Section 230’s plain text and unambiguous legislative history as well as binding Ninth Circuit precedent, erroneously answered this question in the affirmative.

That answer is plainly erroneous because Doe’s claims in this case do not concern Grindr’s role as a “publisher” of user content. Rather, Doe’s claims arise from his allegations that Grindr developed, designed, manufactured, and marketed to children a social

networking product that contained substantial product defects, that these defects allowed children to make an account on Grindr's platform and match with adult men for in-person sexual encounters, and that Grindr marketed the product to children to increase user engagement and profitability. Nothing in the text, findings, or legislative history of Section 230 suggests that Congress intended the statute to provide sweeping immunity to Internet service providers for affirmative conduct unrelated to content moderation. To the contrary, the district court's overly broad interpretation directly contradicts Congress' central purpose in enacting Section 230—ensuring child safety on the Internet—and ironically creates the same perverse incentives that reward service providers for failing to implement tools to protect their most vulnerable users and that animated Congress to pass Section 230 in the first instance.

More importantly, the practical effect of the district court's dismissal will be to allow Grindr to perpetuate the substantial harms caused by social media companies' deleterious use of sophisticated technology that targets children and weaponizes their unique psychology and physiology to addict them to their products—practices that have created a youth mental health crisis of staggering proportion.

ARGUMENT

I. Social Media Products and Practices Have Created a Youth Mental Health Crisis.

The overuse of social media can have negative consequences on people of all ages, but especially adolescents, leading to serious health risks such as poor mental health, disordered eating, and symptoms of addiction. Because they are still developing physically, psychologically, and emotionally, children are particularly susceptible to the unique harms created by social media products.² Indeed, the human brain does not fully develop until the mid to late 20s, including the regions of the brain, such as the prefrontal cortex, responsible for skills like planning, prioritizing, and decision making.³ Adolescence is a particularly critical period of development, when the prefrontal cortex begins to develop at an increasingly rapid pace, causing adolescents to have a unique sensitivity to social media and the content to which they are exposed on various social media platforms.⁴

² Costello, Nancy et al., *Algorithms, Addiction, and Adolescent Mental Health: An Interdisciplinary Study to Inform State-level Policy Action to Protect Youth from the Dangers of Social Media*, 49 Am. J. L. and Med. 135, 145-48 (2023).

³ Alderman, Elizabeth et. al., *Unique Needs of the Adolescent*, 144 Am. Acad. of Pediatrics 6 (Dec. 2019) (<https://publications.aap.org/pediatrics/article/144/6/e20193150/37985/UniqueNeeds-of-the-Adolescent>).

⁴ *Social Media and Teen Mental Health*, Annie E. Casey

In the United States, the use of social media by children and adolescents is universal and omnipresent. 97 percent of teenagers aged 13-17 report using the Internet every day, and 35% report using social media sites such as YouTube, TikTok, Instagram, Snapchat, and/or Facebook “almost constantly.”⁵ This perceived need to be online can lead to symptoms that are commonly associated with substance related addictions.⁶

The extreme level of social media use amongst children is no surprise given that social media companies are highly incentivized to attract as many children to their platforms as they can and provoke continuous use of their products. Since many of these companies rely on an advertising revenue business model, their profitability depends upon ensuring that users, including children, spend as much time on their platforms as possible so that they can deliver ads.⁷

Foundation (last updated Jun 29, 2025)
(<https://www.aecf.org/blog/social-medias-concerning-effect-on-teen-mental-health>).

⁵ Emily A. Vogels et al., *Teens, Social Media and Technology*, Pew Rsch. Ctr. (Aug. 10, 2022)
(<https://www.pewresearch.org/internet/2022/08/10/teens-social-media-and-technology-2022/>).

⁶ Griffiths, Mark D. and Kuss, Daria J., *Adolescent social media addiction (revisited)*, Vol. 35 No. 3 Education and Health (2017)
(https://irep.ntu.ac.uk/id/eprint/31776/1/PubSub9230_Griffiths.pdf).

⁷ See Jeffrey Edell, *Social Media Must Move Beyond a Broken Ad Revenue Business Model*, Rolling Stone (Dec. 8, 2023)
(<https://www.rollingstone.com/culture-council/articles/social->

To increase online engagement, and thereby maximize profit, social media companies leverage their vast technological expertise and knowledge of vulnerabilities in child psychology and neurology to design their products and marketing practices to be as addictive as possible.⁸ Social media platforms are designed to activate the brain's reward centers by creating the chemical dopamine, which can ultimately lead to dependence.⁹ In fact, over 50 percent of teenagers feel that they would have a hard time giving up social media.¹⁰

Adolescents who spend more than three hours each day on social media face an exponentially increased risk of experiencing poor mental health symptoms, such as depression and anxiety.¹¹ A 2023 survey conducted by Gallup found that more than half of teenagers spend an average of four or more hours

media-must-move-beyond-broken-ad-revenue-business-model-1234919543/).

⁸ David Sridhar, *Social media could be as harmful to children as smoking or gambling – why is this allowed?* (July 4, 2023) (<https://www.theguardian.com/commentisfree/2023/jul/04/smoking-gambling-children-social-media-apps-snapchat-health-regulation>).

⁹ Bergman, Matthew, *How to Identify Social Media Addiction and Problematic Use: A Parent Guide*, Social Media Victims Law Center (Jun. 2025) (https://socialmediavictims.org/resources-for-parents/how-to-identify-social-media-addiction/#:~:text=Over%20time%2C%20tolerance%20can%20lead,chronic%20alcohol%20or%20drug%20abusers.)).

¹⁰ U.S. Surgeon Gen., *Advisory: Social Youth Mental Health*, at 9-10 (May 23, 2023) (available at <https://www.hhs.gov/sites/default/files/sg-youth-mental-health-social-media-advisory.pdf>).

¹¹ *Id.* at 6

on social media each day.¹² Teenagers aged 16 to 18 spend an average of five or more hours on social media each day.¹³ Unsurprisingly, a growing body of evidence shows that children are uniquely susceptible to the methods and technologies that social media companies use to market, sell, and maximize user engagement on their platforms, and that their near constant exposure to these platforms has produced acutely negative mental health outcomes.

For example, on December 6, 2021, the former U.S. Surgeon General, Dr. Vivek Murthy, issued an advisory titled “Protecting Youth Mental Health.” In the advisory, Dr. Murthy warned of a mental health crisis among children and young adults caused, in part, by their overuse of social media:

From 2009 to 2019, the proportion of high school students reporting persistent feelings of sadness or hopelessness increased by 40%; the share seriously considering attempting suicide increased by 36%; and the share creating a suicide plan increased by 44%. Between 2011 and 2015, youth psychiatric visits to emergency departments for depression, anxiety, and behavioral challenges increased by 28%. Between 2007 and

¹² Rothwell, Jonathan, *Teens Spend Average of 4.8 Hours on Social Media Per Day*, Gallup (October 13, 2023) (<https://news.gallup.com/poll/512576/teens-spend-average-hours-social-media-per-day.aspx>).

¹³ *Id.*

2018, suicide rates among youth ages 10-24 in the US increased by 57%.¹⁴

Dr. Murthy further noted a “growing concern about the impact of digital technologies, particularly social media, on the mental health and wellbeing of children and young people” and called for greater accountability from social media companies.¹⁵ Specifically, Dr. Murthy observed that social media companies’ business models were often built around “maximizing user engagement as opposed to safeguarding users’ health and ensuring that users engage with one another in safe and healthy ways.”¹⁶

Other medical organizations, including the American Academy of Pediatrics, the American Academy of Child and Adolescent Psychiatry, and the Children’s Hospital Association have echoed the warnings of the Surgeon General, declaring the youth mental health crisis a national emergency.¹⁷

On May 23, 2023, Dr. Murthy issued a second advisory, titled “Social Youth Mental Health,” that

¹⁴ U.S. Surgeon Gen., *Advisory: Protecting Youth Mental Health*, at 8 (Dec. 6, 2021) (available at <https://www.hhs.gov/sites/default/files/surgeon-general-youth-mental-health-advisory.pdf>).

¹⁵ *Id.* at 25.

¹⁶ *Id.*

¹⁷ See *AAP-AACAP-CHA Declaration of a National Emergency in Child and Adolescent Mental Health*, Am. Acad. Pediatrics (Oct. 19, 2021) (<https://www.aap.org/en/advocacy/child-and-adolescent-healthy-development/aap-aacap-cha-declaration-of-a-national-emergency-in-child-and-adolescent-mental-health/>).

again rang the alarm on the growing mental health crisis caused by overuse of social media:

We must acknowledge the growing body of research about potential harms, increase our collective understanding of the risks associated with social media use, and urgently take action to create safe and healthy digital environments that minimize harm and safeguard children's and adolescents' mental health and well-being during critical stages of development.¹⁸

Dr. Murthy explained that social media platforms are designed to maximize user engagement through a number of techniques such as “[p]ush notifications, auto play, infinite scroll, quantifying and displaying popularity (i.e. ‘likes’), and algorithms that leverage user data to serve content recommendations.”¹⁹ Evidence suggests that these tools overstimulate the reward centers in the brain, prompting changes in brain structure similar to those in individuals with substance or gambling addictions.²⁰ As a consequence of habitual social media use, Dr. Murthy warned that children are at an increased risk for significant mental and physical harms, including: (i) depression and anxiety, (ii) low

¹⁸ U.S. Surgeon Gen., *Advisory: Social Youth Mental Health*, at 4 (May 23, 2023) (available at <https://www.hhs.gov/sites/default/files/sg-youth-mental-health-social-media-advisory.pdf>).

¹⁹ *Id.* at 9.

²⁰ *Id.*

self-esteem and poor self-body image, (iii) eating disorders, (iv) sleep deprivation, (v) harassment and cyber-bullying, (vi) exposure to explicit content, and (vi) self-harm and suicide.²¹

Studies have also identified the link between problematic internet use and disordered eating in adolescents. In a 2025 study conducted on Turkish high school students, where over 25 percent were considered to have met the criteria for internet addiction, the research revealed a link between internet addiction and disordered eating.²² In fact, after a robust analysis, internet addiction was a central link to increased risks for disordered eating, social media disorder, and poor diet quality.²³

In addition to mental and physical harm, the Surgeon General has also cautioned that “social media platforms can be sites for predatory behaviors and interactions with malicious actors who target children and adolescents,” such as “adults seeking to sexually exploit children[.]”²⁴ As recently as November 2023, reporting revealed internal records from Meta Platforms, Inc., Facebook and Instagram’s parent company, showing that 51% of Instagram users reported having a bad or harmful

²¹ *Id.* at 7-10.

²² Cil, Mevra A., et al., *The interaction between problematic internet use, diet quality, and disordered eating risk in adolescents: a mediation and network analysis*, *Eating and Weight Disorders* Vol. 30, No. 61 (Aug. 4, 2025). (<https://doi.org/10.1007/s40519-025-01774-9>).

²³ *Id.*

²⁴ *Id.* at 9.

experience on the platform within the past seven days, and 24.4% of these complaints were comprised of children aged 13-15 who had reported receiving unwanted sexual advances.²⁵ According to another report, 13% of all 13-15 year old Instagram users surveyed said that they had received unwanted advances.²⁶

Unsurprisingly, predators are naturally drawn to social media because it provides them with ready access to a large number of children—many of whom are addicted to these platforms. For example, on February 7, 2023, the FBI and other law enforcement agencies issued a warning about the global “financial sextortion crisis” occurring primarily on platforms used by children:

Financial sextortion can happen anywhere, although it mainly occurs on the digital platforms where children are already spending their screen time, like social media and gaming websites, or video chat applications. On these platforms, predators often pose as girls of a similar age and use fake accounts to target young boys, deceiving them into sending explicit photos or videos. The predator then threatens to release the

²⁵ Katie Paul, *Former Meta employee tells Senate company failed to protect teens’ safety*, Reuters (Nov. 7, 2023) (<https://www.reuters.com/technology/cybersecurity/former-meta-employee-tells-senate-company-failed-protect-teens-safety-2023-11-07/>).

²⁶ *Id.*

compromising materials unless the victim sends payment, however, in many cases, the predator will release the images anyway.

Even though financial sextortion is committed virtually, it can have serious impacts offline. After the threats and aggression, victims may feel alone, ashamed, scared, and these feelings can lead to children resorting to self harm.²⁷

Sexual exploitation and abuse of children is an epidemic that has only been fueled by social media and dating apps. Research conducted by the *Childlight Global Child Safety Institute* found that child predators are more than four times likely to use dating apps than non-offenders.²⁸ Their research also revealed that these mainstream companies and social media platforms benefit from and perpetuate technology-facilitated sexual exploitation and abuse of children.²⁹

²⁷ *International Law Enforcement Agencies Issue Joint Warning about Global Financial Sextortion Crisis*, FBI (Feb. 7, 2023) <https://www.fbi.gov/news/press-releases/international-law-enforcement-agencies-issue-joint-warning-about-global-financial-sextortion-crisis#:~:text=the%20FBI%20and%20our%20international,a%20crime%20called%20financial%20sextortion>).

²⁸ *When dating apps turn dangerous*, Global Child Safety Institute (Apr. 9, 2025) (<https://www.childlight.org/newsroom/when-dating-apps-turn-dangerous-2>).

²⁹ *Id.*

The rate of technology-facilitated sexual assault (“TFSA”) in children and adolescents is rapidly increasing. A 2022 study conducted on Australian adolescents examined the medical reports of children between 12 to 17 years old who were examined following allegations of sexual assault.³⁰ The results indicated that TFSA comprised over 20 percent of sexual assault cases between 2019 and 2020, and that the offender was, on average, 10 years older than the victim.³¹

In short, social media companies have enriched themselves and their shareholders at the expense of child health. By designing and delivering addictive products to children, they have fueled a mental health crisis that continues to rage, threatening kids’ physical and mental well-being.

II. The Design and Marketing of Grindr’s Social Networking App Imperils the Physical and Mental Well-Being of Children on the Internet.

Grindr’s use of social media to market its app to kids, together with its failure to implement meaningful age verification tools that could prevent children from creating an account on its platform

³⁰ Rowse, Janine, *Technology-facilitated sexual assault in children and adolescents; is there a cause for concern? Fourteen years of experience at a metropolitan forensic paediatric medical service*, J Paediatr Child Health (Sep. 3, 2021) (<https://pubmed.ncbi.nlm.nih.gov/34477277/>).

³¹ *Id.*

and/or matching with adults, perpetuates the youth mental health crisis described above as part of a craven effort by the company to increase profitability at the expense of child safety.

Grindr directly markets its social networking app on Instagram and TikTok—apps that are known to be popular with kids—through videos and imagery that misleadingly suggest the app is intended and safe for child use. As depicted in Petitioner’s underlying Complaint, such advertising includes TikTok videos depicting two young people wearing backpacks, standing outside of what appears to be a high school and a young person in an elementary, middle, or high school physical education class. By using child actors, placing them in school settings familiar to children, and then distributing the videos on apps to which children are known to use frequently, Grindr has mounted an unmistakable campaign to sell what it claims to be an adult only dating app to children.

As this case illustrates, once children have been persuaded by Grindr’s marketing to download its app, the product’s toothless age verification process poses no obstacle to their ability to sign up for an account and connect with adults, thereby putting them at a high risk of sexual abuse.³² Indeed, Grindr allows children to easily bypass age verification when creating an account by allowing users to input any date

³² *There Are a Lot of Child Sexual Assaults on Grindr. Here’s Why*, SAFER KID (<https://www.saferkid.com/blog/there-are-a-lot-of-child-sexual-assaults-on-grindr- here-s-why>).

of birth that they wish when creating their account without requiring any further steps that would actually verify whether any such user is in fact an adult. It is therefore unsurprising that sexual assault facilitated through Grindr “is not a rare phenomenon,” and is “particularly heinous ... because of the young age of some of the victims.”³³

Furthermore, as with other social media websites, habitual use of the Grindr app can be addictive, resulting in short-term excitement but long-term depression.³⁴ In fact, one survey of 2000,000 iPhone users showed that 77% of Grindr users felt regret after using the app—more than any other app in the survey.³⁵ Grindr, like other social media apps, also leverages psychological concepts such as variable ratio reinforcement, which generates cognitive rewards for “clicking” at unpredictable intervals.³⁶ Because children, as described above, are

³³ Julie Kvedar, *Back to the Grind: Rethinking Grindr's Accountability for User Content*, 29 Southern California Interdisciplinary Law Journal 541, 554-55 (Spring 2020) (quoting Jacob Shelton, Terrifying Grindr Horror Stories, Ranker, <https://www.ranker.com/list/grindr-horror-stories/jacob-shelton>)).

³⁴ *Id.* at 558.

³⁵ *App Ratings*, Ctr. Humane Tech., (<https://www.humanetech.com/insights/app-ratings>).

³⁶ Jack Turban, *We need to talk about how Grindr is affecting gay men's mental health*, Vox.com (Apr. 4, 2018) (<https://www.vox.com/science-and-health/2018/4/4/17177058/grindr-gay-men-mental-health-psychiatrist> (citing Dr. Mike Brooks, *How We Can Become Addicted to Technology* (Sept. 8, 2015) (

particularly susceptible to the addictive propensities of social media use, they are uniquely at risk to experiencing these harms.

Grindr’s toothless age verification process that allows children to use the platform is a topic of concern globally. Not only is Grindr aware of this problem, but they have the ability to address it. Yet they have failed to implement more reliable and secure age verification methods in the United States. In fact, Grindr has only chosen to implement a stricter, biometric age verification system in the United Kingdom—and only in response to government pressure.

As a response to the increase in TFSA, the United Kingdom, through the Online Safety Act of 2023, recently mandated that dating apps implement stricter age verification systems. Specifically, an investigation conducted by *The i Paper*, a UK newspaper, revealed data showing that, since 2019, there has been “at least 130 reports of sexual offences allegedly perpetrated against minors where Grindr was listed as playing a key role.”³⁷ Following these revelations, the UK’s Office of Communications Online issued regulations that required dating apps, like Grindr, to implement by July 2025 verification systems that require customers to scan their ID.³⁸

to-technology/)).

³⁷ Stockwell, Billy, *Dating app Grindr linked to dozens of child sex abuse cases of boys as young as 12*, *The i Paper*, (Jan. 12, 2025) (https://inews.co.uk/news/grindr-child-sex-abuse-boys-12-3470474?ico=in-line_link).

³⁸ *Ofcom Mandates Stricter Age Verification for Dating Apps*, Global Dating Insights (GDI) (January 17, 2025)

Today, Grindr even notifies potential customers outside of the UK that they will not be subject to an age verification process that requires a form of ID unless they visit and open the app in the UK—further evidence that they have the ability to protect children from accessing their platform, but simply choose not to do so.³⁹

The reason Grindr deliberately markets its product to children and allows them to easily bypass its age requirements is no mystery. Grindr’s revenue, as with most other social media platforms, depends upon its ability to increase its userbase and user engagement. The more users it signs up, and the more time those users spend on their app, the more profitable it becomes. Indeed, approximately 75% of its revenue comes from subscription services, and 25% comes from advertising.⁴⁰

Simply put, kids are more likely to become addicted to social media due to their unique physiology and neurology. Grindr has an economic incentive to exploit this propensity because attracting additional users who will use their apps

(<https://www.globaldatinginsights.com/featured/ofcom-mandates-stricter-age-verification-for-dating-apps/>).

³⁹ *Age Assurance in the UK*, Grindr Blog, (Jun. 25, 2025) (<https://www.grindr.com/blog/age-assurance-in-the-uk>).

⁴⁰ Kvedar, *Back to the Grind: Rethinking Grindr's Accountability for User Content*, 29 Southern California Interdisciplinary Law Journal at 555 (citing Mitchell Hall, *Up Close and Personal: Q&A with Grindr Founder Joel Simkhai*, PC MAG. (July 23, 2013) (<https://www.pcmag.com/news/up-close-and-personal-qa-with-grindr-founder-joel-simkhai>)).

for longer periods of time increases their profits. By marketing its product to children and providing those children with a frictionless path to using their platform, that is exactly what Grindr has done—all while turning a blind eye to the severe sexual abuse that their products inflict upon their youngest and most vulnerable customers.

III. The Ninth Circuit’s Overly Broad Interpretation of Section 230 Is Unsupported by the Statute’s Legislative History, Plain Text, and Ninth Circuit Precedent.

PHAI agrees with Petitioner’s convincing legal arguments with respect to the Ninth Circuit’s erroneous conclusion that Doe’s product liability and negligence claims are barred by Section 230. These claims are wholly independent of Grindr’s content moderation activities, and therefore, under applicable Ninth Circuit precedent, do not treat Grindr as a “publisher” sufficient to trigger Section 230 immunity.

Specifically, the Ninth Circuit concluded that Plaintiff Doe’s claims “implicate Grindr’s role as a publisher of third-party content, because discharging the alleged duty would require Grindr to monitor third-party content and prevent adult communications to minors.”⁴¹ In reaching this erroneous conclusion, the Ninth Circuit failed to

⁴¹ *Doe v. Grindr, Inc.*, 128 F.4th 1148, 1153 (9th Cir. 2025).

consider every affirmative action Grindr took prior to and separate from facilitating the communication of minors and predators. For example, Grindr deliberately marketed to children, using ads that would only be appealing to children or child predators. Further, Grindr failed to implement a readily available age verification process that would ensure the platform fulfills its designed purpose—facilitating communication between **adults**. In other words, the duty that Grindr breached concerned its design and marketing of a product that encouraged minor children to use an adults-only dating platform—not its role in facilitating and publishing third-party content.

Furthermore, by extending Section 230 immunity to Doe’s product liability claims, the courts below have effectively incentivized Grindr, as well as other social media companies, to avoid fixing product defects that expose children to significant mental and physical harm on their platforms. Thus, in a bitterly ironic twist, these decisions have created the same perverse incentive structure that, as revealed through the statute’s legislative history, Congress specifically sought to eliminate by enacting Section 230.

As observed by the late Chief Judge Katzmann, the legislative history of the CDA “shout[s] to the rafters” Congress’ intent in protecting children by reducing access to adult materials.⁴² The touchstone

⁴² *Force v. Facebook*, 934 F.3d 53, 88 (2d Cir. 2019) (Katzmann, C.J., dissenting in part).

of the CDA is 47 U.S.C. §230(c), titled “Protection for ‘Good Samaritan’ blocking and screen of offensive material,” colloquially referred to as the “Good Samaritan” provision. Congress initially proposed this provision to encourage Internet service providers to police their platforms for “obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable content” by clarifying, through the grant of a limited statutory defense, that engaging in such content moderation activities would not, by itself, expose the providers to liability.⁴³

The legislative history is clear that the “Good Samaritan” provision was a direct response to, and attempt to overrule, a New York Supreme Court’s decision, *Stratton Oakmont v. Prodigy Servs. Co.*, 1995 N.Y. Misc. LEXIS 229 (N.Y. Sup. Ct. May 24, 1995). In *Stratton Oakmont*, the court held that Prodigy, then a leading internet platform, was liable for defamatory comments published by a third party on Prodigy’s platform.⁴⁴ The court found that Prodigy had created content guidelines discouraging speech that was “insulting,” “harass[ing],” or “in bad taste or grossly repugnant to community standards.”⁴⁵ It concluded that, by taking affirmative steps to combat harmful content on its platform, Prodigy had asserted

⁴³ Christopher Cox, The Origins and Original Intent of Section 230 of the Communications Decency Act, Richmond J.L. & Tech. Blog (Aug. 27, 2020) (<https://jolt.richmond.edu/2020/08/27/the-origins-and-original-intent-of-section-230-of-the-communications-decency-act/>).

⁴⁴ *Id.* at *2-4.

⁴⁵ *Id.* at 5.

editorial control, and was therefore not a mere “distributor” of third-party content but a “publisher” subject to defamation liability.⁴⁶

In other words, *Stratton Oakmont* created a perverse incentive structure that punished online service providers who tried to police their platforms for harmful materials and user misconduct, while rewarding those who refused to implement any safeguards. Congress intended the “Good Samaritan” provision as a direct rebuke of *Stratton Oakmont*, and to encourage service providers to act as “Good Samaritans” by policing content on their platforms without the threat that engaging in moderation would subject them to liability.

For example, the Senate Conference Report explained the “Good Samaritan” provision as follows:

One of the specific purposes of this section is to overrule *Stratton-Oakmont v. Prodigy* and any other similar decisions which have treated such providers and users as publishers or speakers of content that is not their own because they have restricted access to objectionable material. The conferees believe that such decisions create serious obstacles to the important federal policy of empowering parents to determine the content of communications their children receive

⁴⁶ *Id.* at *12-14.

through interactive computer services.⁴⁷

Members of the House Judiciary Committee further stressed the need to rebuke *Stratton Oakmont* through legislation designed to identify and remove harmful content for the protection of children:

[T]here is a tremendous disincentive for online service providers to create family friendly services by detecting and removing objectionable content. These providers face the risk of increased liability where they take reasonable steps to police their systems. A New York judge recently sent the online services the message to stop policing by ruling that Prodigy was subject to a \$200 million libel suit simply because it did exercise some control over profanity and indecent material.⁴⁸

Here, the message sent by the Ninth Circuit's overbroad construction of Section 230 is that social media companies need not fix the defects with their products that allow children to access and use their services in ways that cause significant mental and psychological harm. That message undermines one of the central purposes of the statute—protecting children on the Internet—and recreates the very conditions and perverse incentives that prompted

⁴⁷ H.R. Rep. No. 104-458 at 914 (Jan. 31, 1996).

⁴⁸ 141 Cong. Rec. H8471-H8472 (Aug. 4, 1995).

Congress to enact Section 230.

CONCLUSION

If allowed to stand, the Ninth Circuit's decision affirming dismissal will improperly slam the courthouse doors shut on children seeking to hold social media companies accountable for the severe mental and physical harms that their defective products continue to cause this country's most vulnerable population. The Court should grant the petition for certiorari and reverse the judgment.

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