No. 25-949

IN THE
Supreme Court of the United States

JOHN DOE, ET AL.,

Petitioners,

v.

X CORP., FKA TWITTER, INC.,

Respondent.

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

BRIEF OF AMICI CURIAE TIM TEBOW FOUNDATION AND CHILD PROTECTION ORGANIZATIONS IN SUPPORT OF PETITIONERS

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TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Cases **Page**

Constitutional Provisions

Statutes and Other Authorities

INTEREST OF *AMICI CURIAE*[1]

Tim Tebow Foundation

Tim Tebow Foundation ("TTF") is a nonprofit organization founded in 2010 by Tim Tebow to bring Faith, Hope, and Love to those needing a brighter day in their darkest hour of need.

TTF's four focus areas are children with profound medical needs, people with special needs, orphan care and adoption, and anti-human trafficking and child exploitation. TTF has been called and humbled to serve the most vulnerable people across 120 countries.

TTF takes a strategic approach to serving vulnerable people by forging partnerships with law enforcement, non-governmental organizations, governments, and faith-based organizations around the world. TTF's fight against child exploitation and child sexual abuse material led it to convene a strategic meeting in Lyon, France where it brought together the world's leading experts in victim identification to answer two questions: (1) how many children seen in abuse images are still waiting to be identified and safeguarded; and (2) how can they be found and protected?

Currently there are over 52.5 million child sexual abuse files in the Homeland Security Investigations child-sexual-abuse-image database and approximately 89,000 unidentified series of images of

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[1] No counsel for any party authored this brief in whole or in part, and no entity or person, aside from *amici curiae* and its counsel, made any monetary contribution toward the preparation or submission of this brief. Counsel of record for all parties have received the timely notice required under Rule 37.2.

children being sexually abused and exploited that reside in the world's combined global database, the International Child Sexual Exploitation database at INTERPOL. As a result of the meeting in Lyon, Operation Renewed Hope III was born, the first-ever US based global operation to find these children in the images and bring them to safety. To date over 1,119 children have been identified from their abuse images through Operation Renewed Hope III and over 550 have been protected. Due to the scale of this crisis, TTF's Chairman, Tim Tebow, and Vice President of Anti-Human Trafficking & Child Exploitation, Camille Cooper, testified before Congress exposing the number of children that were waiting to be protected for the first time.

TTF submits this brief because the scale of harm and the number of children being sexually abused online and offline—whose images circulate without end—is a global crisis.

Child abuse offenders are insatiable in their desire for *new* and *increasingly violent abuse*, the trade of this Child Sexual Abuse Material ("CSAM") thus fuels a global demand for *new* images, that can only be met with the abuse of *new* victims. TTF recognizes that central to the eradication of this evil is requiring that technology companies remove these images from their platforms and cease support of this trade—an ability they have but refuse to execute.

By immunizing social-media platforms' participation in the CSAM trade—even after those platforms have identified and acknowledged possession of the CSAM and refused to remove it (just as Twitter did here)—the decision below protects their active creation and maintenance of a market for the

CSAM that TTF and its law-enforcement partners seek to eradicate.

TTF therefore has a compelling interest in ensuring that the Section 230 immunity is restored to what its text requires: *immunity for efforts to protect children, not immunity for efforts to harm them*.

Child Protection Amici

The Child Protection Amici listed in the Appendix are nonprofit organizations, professional institutions, and individual practitioners engaged in the fight against child sexual exploitation.

Their involvement spans from building the technologies law enforcement uses to detect offenders and rescue children from abuse to building technologies used to detect and remove CSAM globally at scale to coordinating the multidisciplinary response to child abuse through Children's Advocacy Centers nationwide to representing survivors of child sexual abuse material crimes in restitution proceedings and civil actions.

Each has a direct stake in ensuring that the law permits accountability for platforms that actively participate in the maintenance and protection of the infrastructure used in CSAM trade. And each joins TTF in respectfully urging the Court to grant the Petition.

SUMMARY OF THE ARGUMENT

Before Twitter came to be recognized as "X" it was readily identified by its pioneering use of the "hashtag" or "#" to thread conversations, connect people, and create communities around shared interests. The hashtag was widely popular. And it was widely effective. So effective that if Twitter wanted to shut down entire nodes of online traffic, it need only block usage of the hashtag. With that, the "community" splinters; their ability to organize around a topic slows and they'll need to rebuild, if they can. Twitter's done this before.

Twitter blocked "#SaveTheChildren" when it believed that the tag was hijacked by QAnon to spread misinformation about child-sex-trafficking rings. Finding these conspiracy theories harmful to the public, Twitter shut down the traffic. Misinformation, Twitter's thinking went, had no home on its popular social-media platform.

But there's a problem.

Though misinformation is intolerable, child sexual exploitation, to Twitter's mind, *is* tolerable—more than that, it's *profitable*.

Unlike #SaveTheChildren, Twitter doesn't shut down hashtags which have as their object the commercial trade of Child Sexual Abuse Material ("CSAM")—*i.e.*, images and videos of children being sexually abused, drugged, harmed, and permanently traumatized. Entire communities on Twitter use known hashtags (*e.g.*, "#megalinks" or "#c*p," for "child porn") to request certain kinds of CSAM (like preferred age ranges, say, "11–15"), offer variations of it, trade it, sell it, and offer free links for free samples.

This is a literal, sustained open-air market created by and supported through Twitter infrastructure.

The decision below holds that neither citizen nor government can avail themselves of the American judicial system to stop this trade. The decision below means that *not a single child depicted in these images has the right to come to court to compel the removal of those images*. All this, the Ninth Circuit holds, is what the law demands under 47 U.S.C. § 230(c)—the Section 230 immunity.

The *opposite* is true.

Far from immunizing a social-media platform's participation in CSAM trade, Section 230(c) immunizes efforts to *stop* that trade and protect children. The words of Section 230(c) command this. It's even in the title: "Protection for 'Good Samaritan' Blocking and Screening of Offensive Material." The decision below got it backwards. It immunized Twitter's decision to identify, possess, and then reproduce John Doe 1 and John Doe 2's CSAM—their cries for help notwithstanding.

The Ninth Circuit also held that the carveout to Section 230 immunity for active participation in child sexual exploitation under 18 U.S.C. § 1591 (the "FOSTA Exception") didn't apply. But it does.

In support of the Petition, Amici bring to the attention of the Court *three* considerations not already raised in the Petition.

First, the testimonies from CSAM victims and research presented, *infra* § I, show that: (1) CSAM victims are harmed not just when the material is created and first produced, but with each *republication* of the material; and (2) because the

CSAM trade is insatiable in its perverse pursuits, it insists on the creation of more obscene material and *new victims*.

Second, the Ninth Circuit misapplied the FOSTA Exception because it missed that Twitter knowingly benefits from child sexual exploitation by *actively* creating, maintaining, and protecting the CSAM trade channels necessary to the marketing, commercialization, and exchange of CSAM, including support for the ancillary "community" which purports to normalize and encourage this trade.

Third, it is no response to say that the technology needed for the widespread removal and prevention of CSAM on Twitter, and other platforms, is not available or too burdensome to use. It has long been here.

* * *

At the center of this dispute is whether Twitter can, with impunity, participate in the proliferation of material that codifies forever the worst moment in so many children's lives. The Ninth Circuit has said Twitter can proceed with impunity.

This Court should grant the Petition and lay a tombstone on decades of infidelity to the words of Section 230(c) and revert it to its natural meaning: Social-media companies are immunized when they *protect children*, not when they participate in the harm to children.

ARGUMENT

I. The testimonies of CSAM victims demonstrate the harms flowing from an active, online CSAM marketplace.

Absent from the Ninth Circuit's Section 230 jurisprudence is how social-media platforms directly and "knowingly assist[], support[], or facilit[ate], 18 U.S.C. § 1591(e)(4), child sexual exploitation by:

(1) protecting the poisonous fruit of child sexual exploitation (the CSAM) from civil judgments compelling their removal—preserving for the CSAM creators not just the memorialization of the initial harm to the victims (the thing they derive pleasure from), but also their *merchandise*, the thing they sell and trade for money;

(2) feeding the insatiable demand and reward system that necessarily creates *new victims*;[2] and

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[2] See United States. Department of Justice, Project Safe Childhood, *Child Sexual Abuse Material.* 2023 Subject Matter Expert Working Group Report. N.p., 2023. Web., available at bit.ly/4aGrFRb, at 1 ("***The market for CSAM among individuals with a sexual interest in children drives the demand for new and more egregious images and videos. The push for new CSAM results in the continued abuse and exploitation of child victims, and the abuse of new children every day***. When these images and videos are posted and disseminated online, the victimization continues in perpetuity. Children often suffer a lifetime of re-victimization knowing the documentation of their sexual abuse is on the internet, available for others to access forever." (emphasis added)); *see also Production and Active Trading of Child Sexual Exploitation Images Depicting Identified Victims* (Mar. 2018), available at bit.ly/4rIjV7t (same).

(3) supporting an artificial "community" of abusers who *need* to trade these images to normalize their deviance.[3]

The following testimonies[4] demonstrate the harms to CSAM survivors long after their initial torture has ended. Powerless to stop this trade, these survivors are all revictimized with the recirculation and immortalization of their abuse. They live with the fear that, at any moment, at any place, someone near to them has seen (or will see) their images or videos.

Jane Doe 1 — Forced to leave home to escape fear of recognition from re-circulating CSAM

Jane Doe 1 survived childhood sexual abuse and was among the few who would get an opportunity to testify against their abusers. And though the trial marked the end of a season for those abusers, it would mark the beginning of a new season of harm flowing to her.

Unable to remove her CSAM from online trade, new harms encumbered Jane Doe 1. Fear of recognition and embarrassment plagued her. To soften these harms, she relocated far from her home state to a place where the internet isn't really "a thing like it was where [she] lived."

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[3] See *supra* note 2 at 5 ("This stable, reliable access to CSAM online normalizes deviant behavior and offenders' perception of the sexual abuse of children and the production, advertisement, possession, and distribution of CSAM."); see also *id.* at 6 (contrasting the prevalence of "thriving" online communities "for these like-minded offenders to . . . *normalize their behavior*, and encourage each other" against the pre-internet world where they would be forced to meet "in person").

[4] Un-anonymized copies on file with the authors.

The downloads had left her in a state of near-total isolation—hiding in her house for days and terrified to meet new people. She withdrew to a rural life and avoided people.

There, Jane Doe 1 has built a protective "cocoon" with her significant other and church community. At times, however, she is reminded that "all of those who inflict pain on children are out in the world and [continue] download[ing] pictures of [her] and other children being hurt," she remains offline for fear of "being found."

She emphasizes that "everyone who downloads [her] CSAM still hurts [her] and still makes [her] afraid to go out in the wider world."

Jane Doe 2 — Her CSAM is still on Twitter

Jane Doe 2 emphasizes the role that Twitter played in her own life. She stresses that because her CSAM continues trading on Twitter, she is "revictimized every single time" those images are "viewed, downloaded, or sent to another person" because while the "pain of [her] sexual abuse may have ended a long time ago, [] the sexual objectification of [her] as a child . . . never will." Even now that the physical abuse has ended, "peace and safety," she says, "especially online," will never come.

She knows that Twitter is "enabling online perpetrators to continue sexually exploiting" her. Worse, she's blighted by the thought that each instance of her CSAM being traded is an instance of "[t]he sexual harm [she] endured as a child" being *celebrated* "as entertainment" for the benefit of Twitter and its users.

Jane Doe 3 — Ongoing trade of her CSAM impacts her relationship with her husband and children

Jane Doe 3's father sexually abused her, recorded the abuse, and circulated the images and videos online. "It blows my mind," she stresses, "that it's still going around after all these years. Technology has changed. I am now an adult and it happened to me when I was so little. I was a child. And people *are still watching it*."

She's resigned to "accept[ing]" that her CSAM "will always be circulating."

Given her father's actions, she never entrusts her children to the care of another because of what her "dad did to [her] and [her] friends." Intimacy in her marriage suffers because she "know[s] people are still looking at what happened to" her so she "disconnect[s]." She attributes her continued "online exploitation" to her "whole life" being "a mess" and feelings of being "worthless" and "not good enough."

The only thing she could do, for her peace, was to opt out of services that would notify her of her CSAM being reshared. She "did not want to be notified every single time someone in the world accessed" the CSAM even though she "knew people were looking at it," she simply "didn't want to know every time it happened."

Powerless to remove these images from circulation, she asks only for the recognition that even though this "happened to [her] as a child, that [] doesn't continue to prevent [her] from being a good mother and a worthwhile person as an adult."

"I," she concludes, "am a person who deserves respect."

Jane Doe 4 — Her CSAM is found through any searches of her legal name

Searching Jane Doe 4's legal name online doesn't return a list of her academic successes or community participation. Instead, it brings up the exploitive images she was coerced into producing—CSAM her parents have tried to remove, after having to sift through hordes of images of other children being abused, without any meaningful success.

And should they prevail on removing a *single* image, it resurfaces "under a different account in a matter of minutes." But even success there means little given the "hundreds of other images" of their daughter which remain on the same platforms. "I can get on any popular platform today," her mother explains, "type in my daughter's name, and within seconds have access to sexually graphic imagery of her."

Worse, predators don't just actively trade her CSAM on social-media platforms, they *pose as her*. They coerce others into trading similar images under the pretense that she is freely making these images *as a child*. Jane Doe 4's mother has received panicked calls from people in the community who have discovered these falsified profiles to warn her that Jane Doe 4 is engaged in pornographic content. Boys her age have chastised her, in person, for "selling porn videos" and admonished her that "there were much better ways to make money."

Those predators have even reproduced her baptismal video in CSAM groups and linked it to the rest of her CSAM, drawing horrifying comments. Her parents constantly field calls from people they know, sincerely concerned about what they see. But they

also receive calls from predators "asking about our daughter."

Though Jane Doe 4 is now in college and has distanced herself from any social-media presence, her images remain online. So her parents remain in the fight. "Imagine that," her parents say about their monitoring efforts, "having to watch your own child being forced to do extremely graphic sexual acts, to view their young body being exposed for the world to see. It is nothing less than horrific."

* * *

The Court described the injury flowing to CSAM victims as follows:

> The demand for child pornography harms children in part because it drives production, which involves child abuse. The harms caused by child pornography, however, are still more extensive because child pornography is "a permanent record" of the depicted child's abuse, and "the harm to the child is exacerbated by [its] circulation[.]" . . .
>
> These crimes were compounded by the distribution of images of her abuser's horrific acts, which meant the wrongs inflicted upon her were in effect repeated; for she knew her humiliation and hurt were and would be renewed into the future as an ever-increasing number of wrongdoers witnessed the crimes committed against her.

Paroline v. *United States*, 572 U.S. 434, 439–41 (2014).

The Ninth Circuit's reasoning—by protecting the re-objectification of CSAM victims—reduces the

survivors to *commodities*. To *things* to be pushed and pulled through the internet for the benefit of others.

Should the Ninth Circuit's read of Section 230 survive, the CSAM victims are again relegated to the subjugation of another. They are, again, placed beyond the protection of the law and told that the law cannot prevent their harms—past, present, or future.

As discussed next, however, Section 230's text commands the opposite.

II. The Ninth Circuit continues to confuse and, dangerously, misread an important federal question; the Petition should be granted to restore Section 230 to its text.

For nearly six years, Justice Thomas has been sounding the alarm of what's to come should social-media platforms continue with impunity. It was only two years ago that he, along with Justice Gorsuch, dissented from the Court's denial of certiorari in *Doe Through Roe* v. *Snap, Inc.*, 144 S. Ct. 2493 (2024). In their view, that petition presented the Court with an opportunity to address the mess that had become of Section 230's immunity. They emphasized that the petition "presented the Court with an opportunity to do what it could not" do in prior Section 230 petitions: "squarely address § 230's scope." *Id.* at 2494. Challenging the denial, they said that though "the Court denie[d] certiorari today," there "will be other opportunities in the future." *Ibid.*

That time has come.

Section 230's scope, especially as to its immunity carveout related to child sexual exploitation, is an important federal question "that has not been, but should be, settled by this Court." S. Ct. R. 10(c).

As the Petition points out, the decision below is wrong as a matter of law. The decision promulgates the decades-long trajectory of: i) extending the limited immunities that do exist in Section 230 to unimaginable lengths; ii) creating new immunities unmoored from the text of Section 230; and, worst of all, iii) nullifying the exceptions to immunity which were *designed* to protect children, resulting in *more* harm to children.

Amici write separately to add *two* overlays not in the Petition, highlighting the Ninth Circuit's error.

A. *First*, social-media platforms routinely take inconsistent legal positions as to when the content they reproduce belongs to them.

As Justices Thomas and Gorsuch admonished: "Social-media platforms have increasingly used § 230 as a get-out-of-jail free card" and have taken *contradictory* positions as to who the speaker is. In cases implicating the platforms' First Amendment rights, they claim "that users' content is their own First Amendment speech," to be left alone from government regulation, because they "organize users' content into newsfeeds or other compilations[.]" *Ibid.* (citing *Moody* v. *NetChoice, LLC*, 603 U.S. 707 (2024)). "When it comes time for platforms to be held accountable for their websites, however, they argue the opposite." *Ibid.*

Just as Twitter below, the "[p]latforms claim that since they are *not* speakers under § 230, they cannot be subject to any suit implicating users' content, even if the suit revolves around the platform's alleged misconduct." *Ibid.* (citing *Doe* v. *Facebook, Inc.*, 142 S.

Ct. 1087 (2022) (Thomas, J., respecting the denial of certiorari (emphasis in original))).

Should the decision below stand, and as discussed next, that "misconduct" includes "knowingly assisting, supporting, or facilitating" known child sexual exploitation and trafficking efforts. See 18 U.S.C. § 1591(e)(4).

All this against the backdrop that Section 230, undisputedly, would have immunized Twitter had it *removed* the CSAM. That's the very purpose of the immunity: shielding those platforms with stiffer spines from liability *should they filter out* illegal content, like CSAM.[5] The title of Section 230 is "Protection for private blocking and screening of offensive material." And the title of Section 230(c) is "Protection for 'Good Samaritan' Blocking and Screening of Offensive Material." Accordingly, should an internet platform identify material which, for example, constitutes CSAM, they can remove that material with impunity.

What was meant to be a shield for the protection of children is thus now a shield for the infrastructure that perpetuates harm to children. Indeed, the very possession and trade of CSAM on these platforms—*but nowhere else in American life*—is shielded from review. Neither citizen nor government, the lower courts say, can enter the well of the courtroom to demand that images be removed and their traders held to account.

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[5] See 47 U.S.C. § 230(c)(2)(A) (creating the immunity for platforms who "voluntarily" take action "in good faith to restrict access to or availability of material that the provider or user consider to be obscene, lewd, lascivious, filthy . . . .")

All this even though no harm would come to those platforms should they remove the material on a proper read of Section 230(c). At bottom, we're left with the realization that platforms, like Twitter, *do not want to remove* this material, it's not profitable.

So Congress responded—or at least it tried to—with the FOSTA Exception. The decision below misses how Twitter's efforts to sustain the CSAM trade with its infrastructure would have satisfied the exception, we take that next.

B. *Second*, FOSTA was meant to curtail abuse of Section 230 immunity, but given the lower courts' infidelity to the text, it accomplished nothing.

The words of Section 230, like all legal texts, "are of paramount concern, what they convey, in their context, is what the text means." A. Scalia & B. Garner, Reading Law: The Interpretation of Legal Texts 56 (2012). The Ninth Circuit missed that the FOSTA Exception in Section 230(e)(5) applied here, not just for the reasons identified in the Petition for Twitter's refusal to monitor and filter CSAM activity, see Pet. at 30–40, but also for Twitter's active participation in supporting, maintaining, and facilitating that trade on its online infrastructure.

As Justice Thomas warned in a different opinion, "[e]xtending § 230 immunity beyond the natural reading of the text can have," and has already had, "serious consequences." *Malwarebytes, Inc.* v. *Enigma Software Grp. USA, LLC,* 141 S. Ct. 13, 18 (2020) (Thomas, J., respecting the denial of certiorari). "Before giving companies immunity from civil claims for knowingly hosting illegal child pornography . . . we

should be certain that is what the law demands." *Ibid.* (cleaned up).

That law, Congress has said, "demands" the opposite.

i. Congress creates the FOSTA Exception

In April 2018, Congress passed the Allow States and Victims to Fight Online Sex Trafficking Act, "FOSTA," and it had a single object: amending Section 230 to expressly carve out immunity for participation in, and benefiting from, sexual exploitation schemes.

FOSTA "amend[ed] the Communications Act of 1934 to clarify that section 230 of such Act does not prohibit the enforcement against providers and users of interactive computer services of Federal and State criminal and civil law relating to sexual exploitation of children or sex trafficking[.]" Allow States and Victims to Fight Online Sex Trafficking Act of 2017, Pub. L. No. 115-164, 132 Stat. 1253 (2018).

Congress clarified that Section 230 "was never intended to provide legal protection to websites that unlawfully promote and facilitate . . . traffickers in advertising the sale of unlawful sex acts with sex trafficking victims[.]" *Id.* § 2(1). FOSTA was implemented into Section 230 by adding what is now Section 230(e), and called the "FOSTA Exception" to Section 230 immunity.

It begins with "[n]othing in [Section 230] (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, United States Code, if the

conduct underlying the claim constitutes a violation of section 1591 of that title[.]" 47 U.S.C. § 230(e)(5)(A).

The conduct at issue here constituted a violation of Section 1591.

ii. Twitter's conduct below, as alleged, satisfied the exception

As relevant here, 18 U.S.C. § 1591(a) criminalizes "knowingly" "benefit[ting], financially or by receiving anything of value, from participation in a venture which has engaged in" an act which "recruits, entices, harbors, transports, provides, obtains, advertises, maintains, patronizes, or solicits by any means a person . . . knowing . . . that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act[.]"

There's no dispute that Twitter held in its hands material it *knew* was CSAM. See Pet. App. 11a (the Ninth Circuit acknowledged this fact). Where the dispute lies is in the Ninth Circuit's reliance on its prior decisions to hold that "Twitter's failure to respond to demands to remove the videos is not the type of 'affirmative conduct' that constitutes 'assistance, support, or facilitation' of sex trafficking for which § 1591 attaches criminal (and, correspondingly, civil) liability." Pet. App. 11a–12a (quoting *Does 1-6* v. *Reddit, Inc.*, 51 F.4th 1137, 1145 (9th Cir. 2022)).

Taking it even further, the Court also said "Twitter did not 'actually engage[ ] in some aspect of the sex trafficking,' as a legal matter, by failing to remove known [CSAM] from its platform." *Id.* at 12a (quoting *Doe* v. *Grindr Inc.*, 128 F.4th 1148, 1155 (9th Cir. 2025)).

Though the Petition explains well the problems of this logic and that the Ninth Circuit did not "read the complaint as a whole," Pet. at 30–33, there's another reason Section 1591 precludes immunity for Twitter: its support of the trade by supporting and protecting the necessary trade infrastructure.

In this way, Twitter benefits from its knowing "assist[ance], support[], or facilita[tion]," 18 U.S.C. § 1591(e)(4), of the CSAM abusers' child sexual exploitation which causes children to engage "in [] commercial sex act[s]," 18 U.S.C. § 1591(a).

Those producing the CSAM need to *trade* that material to not just profit and derive their own perverse pleasures, but also to "normalize" their actions. Just like in any other market, they need to trade CSAM and participate in "communities" which affirm their conduct. And just like in any other market, they need to innovate and produce *new content*. *Cf. Paroline*, 572 U.S. at 439–40 (recognizing that "[t]he demand for child pornography . . . drives production").

But with each transaction or engagement, flowing from that commercial activity, Twitter benefits. Ads are viewed, engagement increases, subscriptions and premium tiers are sold, all while the platform's library of CSAM increases, along with its trade.

Indeed, the ease with which CSAM can now be downloaded creates "an expanding market for child pornography [that] fuels greater demand for perverse sexual depictions of children, making it more difficult for authorities to prevent their sexual exploitation and abuse." *United States* v. *Reingold*, 731 F.3d 204, 217 (2d Cir. 2013) (collecting cases).

No matter how many times the child is harmed and re-harmed—industry roars on. None of this is in the Ninth Circuit's opinion. But it was in the First Amended Complaint. *See* Pet. App. 174a–75a (alleging how Twitter's hash system sustains community pages dedicated to the selling, trading, and *creation* of new CSAM under tags like "#megalinks" and, more brazenly, "c*p" to identify "child porn," and "#s2r" for "send to receive"). This mechanism of trade is buttressed by Twitter and the system it maintains.

So blatant is this Twitter-specific CSAM trade that people publicize their "requests" for specific CSAM. *See id.* at 176a (compiling real Tweets requesting particular CSAM such as "black girls 13–17," "12–15," and, because some material is paid-only content, "Free links ? #megalinks #mega #dropboxtrade").

Contrary to the Ninth Circuit's review, the First Amended Complaint didn't just allege "filtering" or "monitoring" problems, it alleged direct, affirmative conduct in that Twitter "has created the meeting place and the marketplace for a community that is generating content which Twitter is monetizing at the expense of exploited children." *Ibid.* That is knowing, active participation in the trade which causes children to be sexually exploited—and it satisfies the FOSTA Exception allowing civil remedies against Twitter.

* * *

The result then is that by perpetuating infidelity to the text of Section 230, we are today exactly where Justice Thomas and Gorsuch warned we would be: "Notwithstanding the statute's narrow focus, lower courts have interpreted § 230 to confer sweeping immunity for a platform's own actions." *Snap*, 144

S. Ct. at 2493–94 (Thomas, J., joined by Gorsuch, J., dissenting from the denial of certiorari (cleaned up)). "Even when platforms have allegedly engaged in egregious, intentional acts—such as "deliberately structur[ing]" a website "to facilitate illegal human trafficking"—platforms have successfully wielded § 230 as a shield against suit." *Ibid.*

Absent a correction in Section 230's trajectory, the harms to CSAM victims will persist. All this despite the fact that the founts of that harm—the social-media platforms—can (with the proper immunity) slow, if not altogether *end*, the proliferation of those harms. But they don't.

The implication of the decision below is that even if Twitter *never* removed the Petitioners' CSAM, they could never, through court action, force Twitter to do so. The Petitioners, however, benefitted from DHS intervention in their dispute with Twitter to remove the material. But the majority of CSAM victims have not had, do not have, and will not have the same access to extra-judicial remedy. For those survivors, the worst moments of their lives are preserved in perpetuity. Should the Ninth Circuit's reasoning prevail, that CSAM will be traded and re-traded without any mechanism for intervention.

This Court should thus reorient lower courts towards fealty to the words of Section 230, which immunize the *protection of children*, not the *harm of children*.

III. A broad view of Section 230 is not necessary to the survival of these platforms.

In response to the dissenting opinion in *Fair Hous. Council of San Fernando Valley* v. *Roommates.Com,*

LLC, accusing the majority of not going far enough in its extension of Section 230 immunity, the majority (correctly) responded that "the Internet" is no longer a "fragile new means of communication that could be easily smothered in the cradle by" regulatory safeguards. 521 F.3d 1157, 1175 n.39 (9th Cir. 2008). Indeed, it "has outgrown its swaddling clothes and no longer needs to be so gently coddled[.]" *Id.* at 1175 n.39.

And though *Roommates.com* was ultimately an unfortunate step towards the confused precedent that led to the decision below, see Pet. App. at 10a (citing *Roommates.com* for the proposition that "any activity that can be boiled down to deciding whether to exclude material that third parties seek to post online is perforce immune under section 230"), its proclamation about the development of the internet in 2008 is all the more true in 2026.

What were once fledgling startups have now come to dominate American life. See *Moody*, 603 U.S. at 716 ("Social-media platforms, as well as other websites, have gone from unheard-of to inescapable."). It's no response, therefore, to say that should these companies be held to account for their role in the dissemination of CSAM, the world would suffer.

Further still, the technology necessary to prevent these problems altogether already exists. For one thing, Twitter can immediately shut down usage of the hashtags helping offenders coalesce around CSAM. For another, PhotoDNA—a perceptual hashing technology developed in 2009 by Professor Hany Farid of the University of California, Berkeley, working with Microsoft Research—has long been available to effectively screen for CSAM. PhotoDNA generates a digital "fingerprint" of an image that

stays reliable even when the image is resized, cropped, compressed, recolored, or otherwise altered—the tactics offenders use to evade detection. Because it works at the time of upload, the tool scales effortlessly across billions of files.

Those platforms which have integrated PhotoDNA into their upload and messaging flows have seen sharp drops in the recirculation of known CSAM. No company, therefore, can seriously claim it cannot easily screen for CSAM when the solution is this accessible.

Another tool, Project Arachnid, run by the Canadian Centre for Child Protection, crawls the open and dark web, compares images against known CSAM hashes, and sends removal notices to hosting providers. As of February 2026, the project had processed more than 176 billion images, flagged over 126 million suspect files for analyst review, and issued more than 141 million takedown notices.

Most Americans are familiar with automated filtering software on social-media platforms. They've seen these companies deploy similar technologies not for the protection of children but for ideological reasons. Anyone on social media has seen filtering efforts around the COVID pandemic, election interference, health claims, wars in foreign places, and so on.

The CSAM problem is not a *technological* one, it's a *business* one. It reduces to whether Twitter, and its peers, will deploy the existing technology for the benefit of children. The misapplication of Section 230 has emboldened these companies to referee *political discourse* but not the abuse of children.

Reforming the immunity to align it with its original intent—as measured by the words of Sections 230 & 1591—removes protection for the knowing participation in the CSAM trade. Twitter and its peers would have clear incentives to use the tools they already possess to stop the revictimization of survivors while preventing the creation of new victims.

Though the solution has been present, the urgency to deploy it has not. The Petition presents the Court an opportunity to address this while restoring Section 230 immunity to what its words require.

CONCLUSION

Amici ask the Court to grant the Petition to restore Section 230 to its original purpose.

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APPENDIX

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Rights4Girls