No.

In the Supreme Court of the United States

META PLATFORMS, INC. AND INSTAGRAM, LLC,
PETITIONERS,

v.

EIGHTH JUDICIAL DISTRICT COURT OF NEVADA,
CLARK COUNTY, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE SUPREME COURT OF NEVADA

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether the prohibition in Section 230(c)(1) of the Communications Decency Act on "treat[ing]" an online service provider "as the publisher or speaker of any information provided by another information content provider" bars claims that would impose liability for editorial decisions about how to publish third-party content.

2. Whether the First Amendment protects editorial decisions about how to publish third-party content.

PARTIES TO THE PROCEEDINGS

Petitioners Meta Platforms, Inc. and Instagram, LLC are defendants in the district court and were petitioners in the state supreme court. Respondents Eighth Judicial District Court of Nevada, Clark County and District Judge Joanna Kishner were nominal respondents in the state supreme court. Respondent State of Nevada is plaintiff in the district court and was real party in interest in the state supreme court.

RULE 29.6 DISCLOSURE STATEMENT

Petitioner Meta Platforms, Inc. is a publicly traded company (NASDAQ: META). Meta Platforms, Inc. has no parent company, and no publicly held corporation owns 10% or more of its stock. Petitioner Instagram, LLC is a wholly owned subsidiary of Meta Platforms, Inc.

RELATED PROCEEDINGS

Eighth Judicial District Court of Nevada,
Clark County:

State v. *Meta Platforms, Inc.*,
No. A-24-886110-B
(Nov. 6, 2024) (denying motion to dismiss)

State v. *Meta Platforms, Inc.*,
No. A-24-886115-B
(Nov. 14, 2024) (denying motion to dismiss)

State v. *Meta Platforms, Inc.*,
No. A-24-886120-B
(Nov. 15, 2024) (denying motion to dismiss)

Supreme Court of Nevada:

Meta Platforms, Inc. v. *Eighth Judicial District Court of Nevada, Clark County*,
Nos. 89920, 89921, 89922
(Apr. 24, 2026) (denying original petitions for writs of mandamus and prohibition)

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INTRODUCTION

Publishers have always faced choices not just about what to publish but about how to present a work to an audience. Some publish a single edition of a complete work, others serialize content each week, while still others offer a dynamic array of new material daily. Some splash a story with bright colors or bold headlines to nab readers' or viewers' attention; others use staid, black-and-white text and let the content do the talking. Publishers have made such editorial decisions since the advent of written language. Since the 1960s, we've even had a phrase for it: the medium is the message.

Today's social media is no different. Online publishers, like their print-media precursors, must constantly make editorial decisions about how to display third-party content—such as whether to provide a continuous stream or limited selection of content, to target a particular audience, or to prioritize short-form over long-form material. A vibrant online marketplace of ideas and expression has flourished precisely because federal law shields those judgments from interference: Section 230 of the Communications Decency Act and the First Amendment provide mutually reinforcing protections of publishers' editorial discretion. Section 230 prohibits "treat[ing]" an online service provider "as the publisher or speaker of any information provided by another information content provider." 47 U.S.C. § 230(c)(1). And of course the First Amendment enshrines established freedoms of speech and press.

Those vital protections, however, are under attack. Nearly every State and thousands of individual plaintiffs, local governments, and school districts have brought suits claiming that social media has "addicted" teenagers, who allegedly are harmed by what they encounter online. These suits seek staggering damages for, and sweeping changes to, the design of social-media services. The plaintiffs purport to sidestep Section 230's protection for publishing third-party content by casting their claims as targeting online publishing services' "design features"—*e.g.*, how much content they display, how long the content appears, what specific content is accessible to younger users, and whether and how services apprise users of content of potential interest to them.

This case is a prime example. Nevada seeks damages based on the editorial decisions that shape Instagram, Facebook, and Messenger, social-media services operated by Meta Platforms, Inc. The State alleges that certain choices Meta makes in *how* it displays third-party content—how much, for how long, and to whom—have led some young users to "spend more time on [Meta's services] than they otherwise would." App., *infra*, 101a. Branding this spend-more-time outcome as "social media addiction," *e.g.*, *id.* at 146a, the State claims that Meta violated Nevada law by using those design features to display third-party content to young users.

Those claims run headlong into Section 230 and the First Amendment's Speech and Press Clauses, but the Nevada Supreme Court has embraced the State's social-media-addiction workaround. In *TikTok, Inc.* v. *Eighth Judicial District Court of Nevada, Clark County*, 578 P.3d 640 (Nev. 2025), the court interpreted Section 230 to bar claims only when they target "the content of posted videos," not "[c]ontent-neutral design features" that "interact with third-party content." *Id.* at 651. The court also held that the design features did not implicate the First Amendment at all because, in the court's view, the features were not sufficiently expressive and "shape an addictive user experience." *Id.* at 652. In this follow-on case, the court reaffirmed and applied those holdings to reject Meta's arguments that Section 230 and the First Amendment compel dismissal. App., *infra*, 7a-8a. The court thus held that the challenged decisions fall outside Section 230 because they are *Meta's* editorial choices, but outside the First Amendment because they are merely Meta's *editorial* choices. Each conclusion is wrong, but both cannot be right.

The Nevada Supreme Court illogically limited Section 230's protections to a publisher's binary decision *whether* to display a specific piece of content at all. But publishers must make many decisions about *how* to present that content to their audience. The State's claims challenging those decisions equally seek to hold Meta liable as a publisher. The court's contrary approach finds no support in the statutory text or context. And it places the Nevada Supreme Court on the short side of an 8-4 conflict among federal courts of appeals and state courts on the scope of Section 230's protections.

The Nevada Supreme Court compounded its error by disregarding the First Amendment's speech and press guarantees. Those constitutional backstops have long protected decisions about not only what content to publish, but also how to publish it. A newspaper's decisions about how many articles and editorials to print, which stories deserve the front page, and how to arrange and promote related content to encourage a person to keep reading are core editorial judgments that the First Amendment protects. *Miami Herald Publishing Co.* v. *Tornillo*, 418 U.S. 241, 258 (1974). And the same principle applies to new media. *Moody* v. *NetChoice, LLC*, 603 U.S. 707, 733 (2024).

The Nevada Supreme Court departed from that deeply rooted First Amendment tradition. Even accepting the State's premise that its claims challenge only Meta's design choices and not its publication of third-party content, the claims necessarily attack Meta's own editorial discretion safeguarded by the Speech and Press Clauses. The court's invention of a historically ungrounded "addiction" exception to the

First Amendment exacerbated its error. Editorial decisions do not lose their protected character merely because the State views consumption of too much content as potentially dangerous. In holding otherwise, the state supreme court departed from decisions of the Ninth Circuit and the New York Appellate Division, which have rejected any such exception.

Both issues warrant this Court's review in this case. Confusion in the lower courts about the scope of Section 230 and the First Amendment has invited the proliferation of suits seeking to impose liability for online service providers' editorial decisions. The resulting patchwork of conflicting obligations is untenable and at odds with the judgments Congress and the Framers enshrined in Section 230 and the First Amendment. This case also presents an ideal vehicle to resolve the confusion. It raises both questions together in a case where the questions are outcome determinative and were addressed as purely legal rulings in an as-applied posture. The Court is unlikely to see a comparably suitable vehicle anytime soon, and its intervention is needed now. The petition for a writ of certiorari should be granted.

OPINIONS BELOW

The opinion of the state supreme court (App., *infra*, 1a-10a) is not published in the Pacific Reporter but is available at 2026 WL 1129147. The orders of the trial court denying Meta's motions to dismiss in the Instagram case (App., *infra*, 11a-26a), Facebook case (*id.* at 27a-42a), and Messenger case (*id.* at 43a-57a) are not reported.

JURISDICTION

The state supreme court issued its judgment on April 24, 2026. On July 6, 2026, Justice Kagan extended the time within which to file a petition for a writ of certiorari to and including August 10, 2026. This Court has jurisdiction under 28 U.S.C. § 1257(a). *See Atlantic Richfield Co.* v. *Christian*, 590 U.S. 1, 12 (2020).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Relevant provisions are reproduced in the appendix. App., *infra*, 221a-225a.

STATEMENT OF THE CASE

A. Factual Background

Meta owns and operates Instagram, Facebook, and Messenger, three services that organize and display a diverse array of user-generated content, including videos, photos, and messages. App., *infra*, 59a; Compl. ¶ 2, A-24-886115-B D. Ct. Doc. 1 (Jan. 30, 2024) (Facebook Compl.); Compl. ¶ 2, A-24-886110-B D. Ct. Doc. 1 (Jan. 30, 2024) (Messenger Compl.).* Instagram and Facebook permit users to share their own photos, videos, and thoughts for others to see. App., *infra*, 72a; Facebook Compl. ¶ 37. Users can also explore content posted by other users and interact with that content by, for example, liking or commenting on posts. App., *infra*, 72a; Facebook Compl. ¶ 37. Messenger is Meta's

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* Because this case arises at the pleadings stage, the background draws on the facts alleged in the State's three substantially similar complaints, each targeting a different Meta service. *See* pp. 8-9, *infra*. The Instagram complaint, App., *infra*, 58a-220a, is illustrative.

instant-messaging service that allows Facebook users to send messages and other content directly to others. Messenger Compl. ¶¶ 37-38.

Meta must constantly organize a massive amount of third-party content on its services. As this Court recently recognized, "Facebook users, for example, share more than 100 billion messages every day." *Moody*, 603 U.S. at 719. Meta does not publish a jumbled hodgepodge of posts on every conceivable topic from every user (and would not be very popular if it did). It instead exercises editorial judgment about how to organize and prioritize the content and to which users it will be displayed, including based on "views, likes, dislikes, reactions, and comments received on content." App., *infra*, 109a; *see id.* at 104a n.93.

Meta makes further editorial judgments about *how* to display third-party content. For example, instead of imposing an arbitrary "endpoint" (say, 20 photos or 15 videos) that limits what users can view in one sitting, Meta displays content with "endless scroll" and "autoplay" features that enable users to view content continuously without taking any special action (beyond scrolling down or keeping a video player open). App., *infra*, 103a-105a. Meta also presents some user content indefinitely while publishing other content for only a short period by allowing users to time-limit their contributions. *Id.* at 122a (Instagram users may post "Stories" that disappear after "24 hours"). And Meta sends notifications to users that particular third-party content has become available. *Id.* at 125a-127a.

B. Proceedings Below

1. Since 2022, nearly every State, the District of Columbia, numerous local governments and school districts, and private plaintiffs across the country have filed lawsuits against social-media companies, alleging that various design features have caused young users to become addicted to social media. Some States filed suit together in federal court (now coordinated with other cases in multidistrict litigation). Compl., *Arizona* v. *Meta Platforms, Inc.*, No. 23-cv-5448 (N.D. Cal. Oct. 24, 2023); *In re Social Media Adolescent Addiction/ Personal Injury Products Liability Litigation*, No. 22-md-3047 (N.D. Cal.). Other States have chosen to bring individual suits in their own courts. *E.g.*, *Commonwealth* v. *Meta Platforms, Inc.*, 277 N.E.3d 166, 171-173 (Mass. 2026).

Nevada chose the latter course. In 2024, it filed *three* complaints (one each for Instagram, Facebook, and Messenger) against Meta and a subsidiary, Instagram, LLC, in Nevada state court. App., *infra*, 12a n.1. The State alleges (as relevant) that Meta's editorial choices concerning how to display third-party content made its social-media services "addictive," meaning that young users "spend more time on [Meta's services] than they otherwise would." *Id.* at 62a, 101a. According to the State, such "addictive" design elements—including endless scroll, autoplay, "ephemeral" content that appears for only a short period, the display of user likes and other reactions, and the use of notifications—harmed the well-being and development of the services' young users. *Id.* at 141a-161a. The State alleges that Meta's design features increase some young users' "expos[ure] to inappropriate, harmful," or "triggering content," such as "negative body image-related content" and "'like' counts." *Id.* at 106a, 112a, 147a. The State asserts six state-law causes of action (identical across the complaints): unconscionable trade practices, design defect, negligence, unjust enrichment, failure to warn, and deceptive practices. *Id.* at 207a-218a.

2. Meta moved to dismiss all three cases based on Section 230 and the First Amendment. Across three materially identical orders, the district court denied Meta's motions in relevant part. App., *infra*, 11a-57a. The court rejected Meta's argument that the State's claims would "impermissibly impose liability on Meta for deciding how and what third-party content to publish," reasoning that Section 230 does not apply to claims that "concern the design of" Meta's services rather than any particular piece of third-party content. *Id.* at 20a-21a, 36a-37a, 51a-52a. The court then rejected Meta's First Amendment defense on the theory that the design choices targeted by the State are not protected "speech or publishing activities." *Id.* at 22a, 38a, 54a.

3. Meta sought mandamus relief in the Nevada Supreme Court. App., *infra*, 2a. The state supreme court exercised its original jurisdiction but denied the petitions on the merits. *Id.* at 2a-9a.

The Nevada Supreme Court denied relief under Section 230 based on its earlier decision in *TikTok*. App., *infra*, 7a-8a. In *TikTok*, the court held that Section 230 did not bar claims that "TikTok knowingly designed its social media and short-form online video platform to addict young users" through the same design features challenged here. 578 P.3d at 644-646. The court reasoned that the claims would not impose liability for "the content of posted videos" and that Section 230 does not protect "[c]ontent-neutral design features," even those that "interact with third-party content." *Id.* at 651. In this case, the court applied *TikTok* in holding that Section 230 does not apply because the State's claims "target the design of Meta's platforms rather than the content of posted videos." App., *infra*, 8a (quoting 578 P.3d at 651) (brackets omitted).

The Nevada Supreme Court similarly relied on *TikTok* to deny Meta relief under the First Amendment. App., *infra*, 8a. *TikTok* recognized that this Court's decision in *Moody* establishes that "curating third-party content and moderating that content can amount to protected expressive activity under the First Amendment." 578 P.3d at 652. But the court refused to apply *Moody* because this Court had not addressed how the First Amendment applies to "design features" that "shape an addictive user experience." *Ibid.* Instead, the court held that claims "target expressive First Amendment activity" only when they would impose liability based on "content or its curation." *Ibid.* The court thus concluded that the challenged design features are unprotected under the First Amendment. App., *infra*, 8a (citing *TikTok*, 578 P.3d at 652).

REASONS FOR GRANTING THE PETITION

The decision below warrants this Court's review. Section 230 and the First Amendment provide social-media services with robust, overlapping protections for how they publish third-party content. Yet the Nevada Supreme Court held that neither protects Meta's "design" decisions concerning how to publish content. Those holdings are at odds with Section 230's plain text, the Constitution, and this Court's decisions.

The Nevada Supreme Court's approach to Section 230 is wrong. Section 230 bars claims that "trea[t]" an online service provider as a "publisher or speaker of any information provided" by a third party. 47 U.S.C. § 230(c)(1). The statute thus protects a provider from liability for third-party content *and* its publication. The Nevada Supreme Court improperly viewed publishing as confined to deciding *whether* to publish particular content—excluding the many editorial decisions publishers must make about *how* and *to whom* to publish third-party content. That atextual view is irreconcilable with the ordinary meaning of "publisher," the statutory context, and the then-extant consensus interpretation that Congress ratified in 2018 through subsequent legislation.

The Nevada Supreme Court's treatment of the First Amendment is equally flawed. This Court has long read the First Amendment to protect a publisher's decisions about how to display and arrange content. This Court recently reaffirmed, too, that basic First Amendment principles "do not vary" when it comes to social media. *Moody*, 603 U.S. at 733 (quoting *Brown* v. *Entertainment Merchants Ass'n*, 564 U.S. 786, 790 (2011)). The state supreme court nonetheless held that the publication choices reflected in the design of Meta's services do not even implicate the First Amendment.

That makes no sense. Regardless of whether Section 230 protects such editorial decisions, the First Amendment unquestionably does. Speech and press liberties ensure that a plaintiff could never sue a newspaper for arranging its stories to maximize subscriptions or cable news for teasing stories before commercial breaks to keep viewers tuned in. The answer should be no different for social media. Although claims of harm from publishing are as old as the Republic itself, there is no history of prohibiting purportedly "addictive" presentations of content.

Immediate review is warranted. The Nevada Supreme Court's decision deepens a conflict on the scope of Section 230 and entrenches its earlier departure from other courts on the scope of the First Amendment. The issues affect pending suits brought by nearly every State and thousands of plaintiffs in courts across the country, many of which may not make their way to this Court cleanly. This case presents an excellent vehicle to resolve urgent and intertwined issues.

I. THE DECISION BELOW IS WRONG.

Section 230 and the First Amendment both protect the online presentation of third-party content. The Nevada Supreme Court curtailed those dual protections on the theory that Section 230 and the First Amendment bar only attempts to impose liability for binary decisions about *whether* to publish third-party content—not any of the choices publishers make regarding *how* to present the content, including how much, for how long, and to whom. In reducing Meta's protections to the up-or-down decision whether to publish specific third-party content on its services, the state supreme court defied Section 230 and the First Amendment, both of which foreclose attempts to commandeer editorial decisions about the arrangement, organization, and display of third-party content.

A. Section 230 Protects Online Service Providers' Editorial Decisions About How To Publish Third-Party Content.

1. Section 230 states that "[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." 47 U.S.C. § 230(c)(1). Because the statute does not define what it means to "treat" a provider as a "publisher or speaker," the words bear their ordinary meaning. *See EPA* v. *Calumet Shreveport Refining, L.L.C.*, 605 U.S. 627, 638 (2025). A "publisher" is "one that makes public" or "reproduce[s] . . . a work intended for public consumption." *Webster's Third New International Dictionary* 1837 (1993) (*Webster's*); *see ibid.* (defining "publish" as "to declare publicly" or "make generally known"). And to "treat," when used with "as," means to "regard (as something or in a particular way) and act toward or deal with accordingly." *Webster's* 2434. Section 230 thus bars claims that would impose liability on a defendant for how it does (or does not) display any information provided by third parties.

Treating a defendant as a publisher includes regulating the many decisions that publishers invariably make about how to display content—in what format, where, when, for how long, and to whom. As this Court has explained in the First Amendment context, "editorial control and judgment" extend beyond the "choice of material" to other "decisions made as to limitations on the size and content of the [publication]." *Tornillo*, 418 U.S. at 258. Publishers also decide how to arrange content. For example, they may include excerpts of a book on its cover or place "above the fold" the stories they think "will sell the newspaper." *Cambridge Business English Dictionary* 2 (2011). In addition, publishers make decisions to tailor the publication to the intended audience—whether nationwide, local, or (as with social media) individualized. *See Keeton* v. *Hustler Magazine, Inc.*, 465 U.S. 770, 781 (1984). And publishers' "broad discretion in selecting [content]" includes the authority to discontinue offerings or change their format. *FCC* v. *WNCN Listeners Guild*, 450 U.S. 582, 602 (1981); *see id.* at 600.

As further evidence that Congress used the ordinary meaning of publisher, Section 230 bars claims that treat a provider as *either* "the publisher *or* speaker" of third-party content. 47 U.S.C. § 230(c)(1) (emphasis added). The term "speaker" already prevents providers from being treated as the one who "ma[d]e a written statement," protecting them from liability for third-party content itself. *Webster's* 2185. The term "publisher" would be redundant if it did not cover a broader range of editorial functions that make third-party content available to the public. *See Yellen* v. *Confederated Tribes of Chehalis Reservation*, 594 U.S. 338, 360 (2021).

The plain meaning of Section 230 thus bars any claim that would impose liability on online service providers for the *way* they publish third-party information, including the many decisions they must make about not only whether to display others' content but also "where on their sites" content should appear, "to whom it should be shown," and "what type and format of third-party content they will display." *Force* v. *Facebook, Inc.*, 934 F.3d 53, 66-67 (2d Cir. 2019). Such claims "treat" providers as "publishers" by trying to hold them responsible for the "form" in which they make third-party content available. *Jane Doe No. 1* v. *Backpage.com, LLC*, 817 F.3d 12, 21-22 (1st Cir. 2016).

Instead of limiting that protection to claims that impose liability for publishing only certain kinds of information (such as defamation), Congress cast a wide net for claims that regard the defendant as a publisher. The statutory prohibition applies to "*any* information provided by another information content provider"—not just to specific kinds of content, harmful or otherwise. 47 U.S.C. § 230(c)(1) (emphasis added). And "[n]o cause of action may be brought and no liability may be imposed under any State or local law that is inconsistent with this section." *Id.* § 230(e)(3). Section 230 thus ensures that state law cannot control how service providers present any third-party content online, just as state law cannot control whether the content appears to begin with.

The statutory context confirms that Section 230(c)(1) insulates online service providers from liability for decisions concerning how—and not merely whether—to publish content. *See Snyder* v. *United States*, 603 U.S. 1, 12-13 (2024). Congress expressly defined the "interactive computer service[s]" entitled to protection under subsection (c)(1) to include "access software provider[s]," 47 U.S.C. § 230(f)(2), which offer "software" or "tools" that "filter," "screen," "display," "pick," "choose," "digest," "organize," or "reorganize" content, *id.* § 230(f)(4). That breadth of coverage makes sense. After all, if subsection (c)(1) did not protect decisions about how to display content, then plaintiffs could evade the statute by targeting interactive computer services for functions that they necessarily and predictably perform. Congress did not extend Section 230 protection to such entities "with one hand, only to bar it with the other." *Exxon Mobil Corp.* v. *Corporación Cimex, S.A. (Cuba)*, 146 S. Ct. 1909, 1919 (2026) (citation omitted).

Congress dispelled any possible ambiguity through subsequent legislation. Lower courts had (until recently) uniformly understood subsection (c)(1) to "protec[t] the 'exercise of a publisher's traditional editorial functions.'" *Malwarebytes, Inc.* v. *Enigma Software Group USA, LLC*, 141 S. Ct. 13, 16 (2020) (Thomas, J., statement respecting the denial of certiorari) (quoting *Zeran* v. *America Online, Inc.*, 129 F.3d 327, 330 (4th Cir. 1997)). Congress ratified that consensus interpretation by amending Section 230 to exempt certain sex-trafficking claims, without modifying subsection (c)(1). Allow States & Victims to Fight Online Sex Trafficking Act of 2017, Pub. L. No. 115-164, § 4(a), 132 Stat. 1254 (2018) (47 U.S.C. § 230(e)(5)). When Congress amends a statute but leaves untouched language construed in an "unwavering line of . . . judicial interpretation," Congress is presumed "to ratify" the judicial construction of the unamended provision. *Bragdon* v. *Abbott*, 524 U.S. 624, 645 (1998).

Here, the design features targeted by the State are integral to publication of third-party content. The State challenges "endless scroll, autoplay, and reels," faulting Meta for *how much* content it publishes. App., *infra*, 101a-107a. The State alleges that "ephemeral" content shown for only 24 hours draws users back to social media on a daily basis, faulting Meta for *how long* content is made available. *Id.* at 121a-125a. The State alleges that Meta should not have displayed "reactions" (such as likes and comments) to young users, faulting Meta for publishing a *specific type* of third-party content to a particular audience. *Id.* at 107a-

121a. And the State alleges that Meta should not have sent notifications, faulting Meta for *informing* users about available content. *Id.* at 125a-127a.

Each of those functions—how much content to publish in a given format, how long the content stays up, and to whom to publish the content—is necessarily part of the presentation of third-party content. Meta must post the content for either a short period or a long period. It must post either a lot of content or a little bit. And it must post the content to either a small audience or a large one. There is no way to remain agnostic about these judgments and to publish third-party content without deciding how that content will be presented. Section 230(c)(1) leaves those decisions about organization and display to online publishers, not to 50 different States, thousands of school districts, and millions of users.

2. The Nevada Supreme Court has drastically limited Section 230's protection against claims that "trea[t]" a defendant "as the publisher or speaker" to claims that "seek to curtail or alter the mix of third-party content" that the online service provider publishes. *TikTok*, 578 P.3d at 649, 651 (citation omitted). Below, the court adhered to its now-entrenched view that Section 230 does not bar claims that "target" a provider's "design" of its "platforms rather than the content of posted videos." App., *infra*, 7a-8a. That interpretation has no basis in the statute and fails on its own terms.

The state supreme court mistakenly tried to divorce online service providers' design features from the content that they make available to the public. No ordinary speaker of the English language would say that a

State "treat[s]" a newspaper company "as [a] publisher," 47 U.S.C. § 230(c)(1), only when it dictates which stories to run—but *not* when the State tells the company which stories to publish on the front page, how big to make headlines, where to divide stories that must "jump" to be continued on an internal page, how many days to run a column, or how frequently to publish. Each is a quintessential editorial judgment, whether made by a newspaper publisher or a social-media company. *See* pp. 13-14, *supra*.

Nevada's suit seeks to impose liability on Meta for how much content it displays, how long it leaves content up, what content (here, likes and reactions) it displays to a particular audience, and whether it publicizes the availability of content. Its overarching theory that Meta "designed its social media platforms to addict young users," App., *infra*, 2a, faults Meta for publishing engaging third-party content in an engaging way. But that is what publishers do. The State's suit thus treats Meta as a publisher and is barred by Section 230.

B. The First Amendment Protects Editorial Decisions About How To Publish Content.

The Nevada Supreme Court also erred by holding that the First Amendment permits state law to override online platforms' editorial judgments in presenting third-party content. This Court has long held that the First Amendment protects editorial decisions about how to display others' speech. That principle applies equally to social-media services' choices about how to publish information supplied by others. If the state supreme court were correct that Section 230 does not apply here because the relevant publishing decisions are *Meta's*, then the First Amendment clearly prohibits Nevada from targeting Meta's own editorial judgments.

1. The First Amendment's Speech and Press Clauses protect editorial decisions about how to display content. When a person "exercises editorial discretion in the selection and presentation" of content, that person is "engage[d] in speech activity." *Arkansas Educational Television Comm'n* v. *Forbes*, 523 U.S. 666, 674 (1998). This Court has "reaffirm[ed] unequivocally the protection afforded to editorial judgment" in preparing compilations of speech, whether that judgment goes to "content or layout." *Tornillo*, 418 U.S. at 255 (quoting *Pittsburgh Press Co.* v. *Pittsburgh Comm'n on Human Relations*, 413 U.S. 376, 391 (1973)).

The Free Press Clause bolsters that conclusion by providing overlapping protection for editorial judgments. *See Turner Broadcasting System, Inc.* v. *FCC*, 512 U.S. 622, 636 (1994). The press has always had "editorial discretion" to choose among both "a wide variety of topics" and "a wide variety of formats." *Ibid.* (citation omitted). In *Tornillo*, for example, the Court explained that "decisions made as to limitations on the *size* and content of [a] paper" alike "constitute the exercise of editorial control and judgment" that the Free Press Clause safeguards. 418 U.S. at 258 (emphasis added).

Long before *Moody*, the Court understood the "liberty of the press" to encompass "every sort of publication which affords a vehicle of information and opinion." *Lovell* v. *City of Griffin*, 303 U.S. 444, 452 (1938).

Moody further underscored that, "'[w]hatever the challenges of applying the Constitution to ever-advancing technology, the basic principles' of the First Amendment 'do not vary.'" 603 U.S. at 733 (quoting *Brown*, 564 U.S. at 790). Such protections "hold true" for expression "conveyed over the Internet." *303 Creative LLC* v. *Elenis*, 600 U.S. 570, 587 (2023).

The First Amendment thus protects social-media services' editorial decisions "about what third-party speech to display and how to display it." *Moody*, 603 U.S. at 716. No less than traditional publishers who use printing presses, social-media companies today exercise "'editorial discretion in the selection and presentation' of content." *Id.* at 731 (quoting *Arkansas Educational Television*, 523 U.S. at 674). Online service providers "possess a First Amendment right to exercise their editorial discretion over what content to carry and how to carry it." *U.S. Telecom Ass'n* v. *FCC*, 855 F.3d 381, 430 (D.C. Cir. 2017) (Kavanaugh, J., dissenting from denial of rehearing en banc). Yet the State's claims in this case seek to impose liability for Meta's exercise of protected editorial judgment:

- The First Amendment protects Meta's choices about *how much* content to display. Endless scroll and autoplay affect the publication's "size," just like a decision by a newspaper to add another section or by a cable broadcaster to air a TV-show marathon. *Tornillo*, 418 U.S. at 258.
- The First Amendment protects Meta's choices about *how long* to display content. The feature the State calls ephemeral content ("stories" that post for only 24 hours) determines the period certain content is made available, just like a studio

might offer a movie for a limited run in theaters before releasing it on Netflix. *Cf. Reed* v. *Town of Gilbert*, 576 U.S. 155, 172 (2015) (invalidating durational limits on signs).

- The First Amendment protects Meta's choices about *what* content to display. The display of users' likes and other reactions is "an edited compilation of speech generated by other persons," just like "most newspapers' opinion pages." *Hurley* v. *Irish-American Gay, Lesbian & Bisexual Group of Boston*, 515 U.S. 557, 570 (1995).
- The First Amendment protects Meta's choices to *publicize* the availability of content on its services. Notifications about new content are a form of "circulating" the content, just like advertising the upcoming release of a new book. *Lovell*, 303 U.S. at 452.

Unlike traditional tort actions that target unprotected speech or conduct with "exacting proof requirements" that "provide sufficient breathing room for protected speech," the State seeks to impose massive fines directly for these protected editorial judgments. *Chiles* v. *Salazar*, 607 U.S. 627, 653 (2026) (brackets and citation omitted). The State's claims thus violate the First Amendment.

2. The Nevada Supreme Court did not dispute that the State's claims concern Meta's choices about how to display content. Nor could it after circumventing Section 230 on the theory that the State targeted Meta's own choices instead of third-party content. But the court still sidelined *Moody* for two reasons. First, that court has understood the First Amendment to bar only efforts "to impose liability based on any content or its

curation." App., *infra*, 8a (quoting *TikTok*, 578 P.3d at 652). Second, the court has reasoned that *Moody* does not apply to design features that "shape an addictive user experience." *TikTok*, 578 P.3d at 652. Neither justification has any grounding in this Court's decisions.

The Nevada Supreme Court was wrong that the First Amendment does not protect design features that implement editorial decisions about how to display content. As discussed, the First Amendment protects "'editorial discretion in the selection *and* presentation' of content." *Moody*, 603 U.S. at 731 (emphasis added; citation omitted). That protection extends beyond the "choice of material" to many other editorial choices about how to display the content, such as questions of "layout" and "size." *Tornillo*, 418 U.S. at 255, 258 (citation omitted). No decision of this Court endorses the state supreme court's crabbed view of the First Amendment.

The Nevada Supreme Court also erred in holding *Moody* inapplicable any time a plaintiff claims that a compilation of content is "addictive." *TikTok*, 578 P.3d at 652. Here, the State claims that the challenged design features are "addictive" because some young users "spend more time on [Meta's services] than they otherwise would" without the features. App., *infra*, 101a. But this Court has underscored "the narrowness of the recognized exceptions" to the First Amendment's protections, including its protections for "editorial judgment[s]" about "where to place" content in a publication. *Pittsburgh Press*, 413 U.S. at 382. So-called addictive speech is not a "historic and traditional" category excluded from the First Amendment.

United States v. *Alvarez*, 567 U.S. 709, 717 (2012) (citation omitted). To the contrary, "[t]hat the State finds expression too persuasive does not permit it to quiet the speech or to burden its messengers." *Sorrell* v. *IMS Health Inc.*, 564 U.S. 552, 578 (2011).

Nor does any court have "freewheeling authority to declare *new* categories of speech outside the scope of the First Amendment." *United States* v. *Stevens*, 559 U.S. 460, 472 (2010) (emphasis added). Instead, this Court has required "persuasive evidence" that any exception is "part of a long (if heretofore unrecognized) tradition of proscription," even in cases involving minors. *Brown*, 564 U.S. at 792; *see, e.g.*, *id.* at 794; *Erznoznik* v. *Jacksonville*, 422 U.S. 205, 213-214 (1975). There is no tradition of punishing bookstores for stocking their shelves with page-turner chapter books, broadcasters for assembling an irresistible Saturday morning lineup of cartoons, or advertisers for pairing children's products with "catchy jingles." *Sorrell*, 564 U.S. at 578.

History reflects that criticism of entertainment popular among the young is nothing new. Each new generation has disparaged "dime novels," then "motion pictures" and "[r]adio dramas," and later "comic books," "television," "music lyrics," and "video games." *Brown*, 564 U.S. at 797-798. The First Amendment has stood steadfast against such efforts to penalize new forms of media merely because of their purportedly "greater capacity for evil . . . among the youth of a community." *Joseph Burstyn, Inc.* v. *Wilson*, 343 U.S. 495, 502 (1952) (holding that the First Amendment protects "motion pictures"). That same tradition precludes Nevada's attempt to penalize Meta for editorial decisions about how much content to publish, how long to leave it up, what content to publish to a particular audience, and whether to publicize when content is available.

II. THE DECISION BELOW WARRANTS REVIEW.

In denying protection under Section 230 and the First Amendment to editorial decisions about how to display content, the Nevada Supreme Court deepened one acknowledged split and created another. Courts have frequently recognized their disagreement about whether Section 230 protects the full range of editorial decisions online platforms make. The Nevada Supreme Court also departed from decisions that have applied settled First Amendment principles to laws that regulate purported social-media addiction. Uncertainty on both issues has created disarray and confusion as Meta and other online service providers face rapidly proliferating lawsuits under the laws of dozens of States, without the nationally uniform protections Section 230 and the First Amendment should guarantee.

A. The Decision Below Implicates Splits About Both Section 230 And The First Amendment.

1. The Nevada Supreme Court aligned itself with the wrong side of an acknowledged 8-4 split among the courts of appeals and state courts over Section 230's application to an online service provider's decisions regarding how to publish content. Had the state supreme court adopted the majority rule, it would have held that Section 230 bars many or all of the State's claims.

a. The First, Second, Fifth, Ninth, and D.C. Circuits, and the Texas Supreme Court, Wisconsin Supreme Court, and the New York Appellate Division, have all rejected attempts to divorce design choices from the content whose publication they facilitate.

The Second Circuit's decision in *Force* is illustrative. There, the plaintiffs sued Facebook (now Meta) for allegedly providing Hamas with a communications platform that enabled attacks on U.S. citizens. 934 F.3d at 57. The Second Circuit applied Section 230 to bar the claims that Facebook should have "delete[d] content from Hamas members' Facebook pages." *Id.* at 65. But the court went further, holding that Section 230 also protects "arranging and distributing third-party information" as an "essential result of publishing." *Id.* at 66. From "the early days of the Internet," online service providers have always made "editorial decisions" beyond "the decision to host third-party content in the first place," such as "where on their sites" content should appear, "to whom it should be shown," and "what type and format of third-party content they will display." *Id.* at 66-67.

The Ninth Circuit reached the same conclusion in *Dyroff* v. *Ultimate Software Group, Inc.*, 934 F.3d 1093 (9th Cir. 2019). The website there allowed users to post anonymously and notified users when someone in their group responded to a post. *Id.* at 1094-1095. The plaintiff's son overdosed after buying drugs through the website. *Id.* at 1095. Although the plaintiff framed her claims as challenges to the website's design features—including anonymous posting and the notification to her son that someone had responded to his solicitation for drugs—the Ninth Circuit held that she could not "plead around Section 230 immunity" by attacking design features that are "tools meant to facilitate the communication and content of others." *Id.* at 1098. By using these features, the online service provider "was acting as a publisher of others' content." *Ibid.*; *accord Doe* v. *Grindr Inc.*, 128 F.4th 1148, 1153 (9th Cir. 2025) (design claims treat defendant as publisher when "challenged features" are not "independent of [defendant's] role as a facilitator and publisher of third-party content").

Other courts of appeals have likewise rebuffed attempts to hold online service providers liable for publishing decisions about how, or to whom, to present or to organize third-party content. The First Circuit has held that Section 230 protects "the structure and operation" of a website, including the ability for users to post anonymously, decisions on who may or may not post, and rules for uploading photographs. *Backpage.com*, 817 F.3d at 21. The Fifth Circuit has applied Section 230 to bar a claim that a service provider was liable for failing to "implemen[t] safety technologies" to protect minors from communicating with adults. *Doe* v. *MySpace, Inc.*, 528 F.3d 413, 419-421 (5th Cir. 2008). And the D.C. Circuit agrees that, under Section 230, "[s]tate law cannot predicate liability for publishing decisions," *Klayman* v. *Zuckerberg*, 753 F.3d 1354, 1360 (D.C. Cir. 2014), including the "choice" to present "third-party data in a particular format," such as "a website design that" takes location information provided by third parties and portrays it "pictorially," *Marshall's Locksmith Service Inc.* v. *Google, LLC*, 925 F.3d 1263, 1269-1270 (D.C. Cir. 2019).

Three state courts have rejected attempts to evade Section 230 by challenging design features. The Texas Supreme Court has interpreted Section 230 to bar claims that are "couched as complaints about Facebook's 'design and operation' of its platforms" if those design features would have prevented the alleged harm only by eliminating or reducing content. *In re Facebook, Inc.*, 625 S.W.3d 80, 93 (Tex. 2021) (citation omitted). The Wisconsin Supreme Court has held that a claim that an online provider negligently "design[ed] a website that could be used to facilitate illegal sales" still "derives from its role as a publisher." *Daniel* v. *Armslist, LLC*, 926 N.W.2d 710, 725-726 (Wis. 2019). And the New York Appellate Division has reasoned that a claim of defective design was "'inextricably intertwined' with the social media defendants' role as publishers of third-party content." *Patterson* v. *Meta Platforms, Inc.*, 239 N.Y.S.3d 726, 735 (App. Div. 2025) (citation omitted).

b. By contrast, the Third and Fourth Circuits and the Massachusetts Supreme Judicial Court have limited Section 230's coverage to claims that hold online service providers liable for harmful or improper third-party content.

The Fourth Circuit has held that Section 230 allows liability for publishing third-party content unless liability would be "based on the information's improper content." *Henderson* v. *Source for Public Data, L.P.*, 53 F.4th 110, 123 (4th Cir. 2022). The court reasoned that historically "defamation required publishing a 'false and defamatory statement,'" so the "publisher was held liable because of the improper nature of the content of the published information." *Id.* at 122 (citation omitted). Based on its understanding of the common law, the court adopted a two-part test: a claim treats a defendant as a publisher or speaker "when it (1) makes the defendant liable for publishing certain information to third parties, and (2) seeks to impose liability based on that information's improper content." *Id.* at 120-121.

The Massachusetts Supreme Judicial Court has followed the Fourth Circuit's narrow interpretation of Section 230. In *Commonwealth* v. *Meta Platforms*, the court recognized that other courts have held that "the phrase 'treated as the publisher . . . of any information' extends to bar claims that implicate a provider's role as a publisher, including its editorial choices concerning whether, how, when, for how long, and to whom to publish information." 277 N.E.3d at 178; *see id.* at 179 (discussing *Force* and *Backpage.com*). But the court embraced the requirement in *Henderson* that a claim must both "implicate publishing activities" *and* "seek to hold the service provider liable for the content of the information published." *Id.* at 185. Applying that rule to claims indistinguishable from the State's claims here, the Massachusetts Supreme Judicial Court held that Section 230 allowed a State to impose liability for editorial decisions about "how, whether, and for how long information is published," so long as the State asserts that "the published information itself is not the source of the harm alleged." *Id.* at 187.

The Third Circuit has likewise held that Section 230 does not protect editorial choices about how to display content, albeit with a different rationale. In *Anderson* v. *TikTok, Inc.*, 116 F.4th 180 (3d Cir. 2024), the court concluded that Section 230 does not protect decisions about how to "curate compilations of others' content" because such editorial decisions constitute the provider's own "protected first-party speech" under this Court's decision in *Moody*. *Id.* at 184. The court stated, echoing the Fourth Circuit and Massachusetts Supreme Judicial Court, that Section 230 applies only when service providers "are sued for someone else's expressive activity or content." *Id.* at 183. At the same time, the Third Circuit acknowledged that its decision "may depart from" the majority view reflected in decisions like *Force*, *Dyroff*, *Backpage.com*, *MySpace*, and *Klayman*. *Id.* at 184 n.13.

c. The Nevada Supreme Court below reiterated its commitment to the minority view that Section 230 does not bar claims challenging design features so long as the State disavows any effort "to hold Meta liable for any third-party content it publishes." App., *infra*, 7a; *accord TikTok*, 578 P.3d at 651. That reasoning firmly aligns with the Fourth Circuit side of the split.

Meta would have prevailed under the majority view of Section 230 for many or all of the State's claims. The features determining how much or how long Meta displays content (such as endless scroll and 24-hour stories) are classic editorial decisions about "where" content should appear, "to whom it should be shown," and "what type and format" it should come in. *Force*, 934 F.3d at 66-67. The allegations that Meta failed to "implement basic safety measures to protect minors" (such as hiding the number of likes on posts) are "merely another way of claiming that [Meta] was liable for publishing" third-party content. *MySpace*, 528 F.3d at 419-420. And Meta's notifications about the availability of content are "tools meant to facilitate the communication and content of others" that Section 230 shields. *Dyroff*, 934 F.3d at 1098. None of those other courts would have been swayed by the State's attempt to plead around Section 230.

2. In distinguishing *Moody* and sidelining the Constitution, the Nevada Supreme Court also created a split on the First Amendment. The Ninth Circuit and the New York Appellate Division have applied traditional First Amendment principles when presented

with a theory of social-media addiction. The decision below did not.

The Ninth Circuit rejected social-media exceptionalism in *NetChoice, LLC* v. *Bonta*, 152 F.4th 1002 (9th Cir. 2025), which addressed California's Protecting Our Kids from Social Media Addiction Act. *Id.* at 1009-1010. Among other things, California sought to impose a default rule under which social-media companies "may not show minors how many likes, shares, or other forms of feedback a post has received" unless a parent agrees to change the default. *Id.* at 1010. The Ninth Circuit held that the regulation of the display of likes and other reactions to minors was "content discrimination" that failed strict scrutiny. *Id.* at 1016-1017 (citing *Brown*, 564 U.S. at 803).

In *Patterson*, the New York Appellate Division applied *Moody* to allegations of addictive design features. The plaintiffs there alleged that violent content on social media inspired a shooter because "addictive features," including endless scroll, autoplay, and notifications, "creat[ed] a constant stream of media that is difficult to close or leave." 239 N.Y.S.3d at 737 (Nowak, J., dissenting). But the majority explained that "[e]very method of displaying content involves editorial judgments regarding which content to display and where on the platforms," *id.* at 733, and rejected the argument that "'addiction' to social media platforms" could be "wholly unrelated" to the content, *id.* at 735. As a result, the case fell under *Moody*, even though the plaintiffs challenged features that allegedly "maximiz[ed] [the shooter's] engagement" with social media. *Id.* at 733.

The Nevada Supreme Court alone has refused to apply *Moody* based on allegations that editorial decisions "shape[d] an addictive user experience." *TikTok*, 578 P.3d at 652. That aberrant rule is at odds with *Bonta* and *Patterson*. Under *Bonta*, the State's attempt to regulate Meta's display of likes and other reactions, App., *infra*, 109a-121a, is unconstitutional content-based discrimination, 152 F.4th at 1016-1017. And under *Patterson*, the State's allegations of increased "expos[ure] to inappropriate" or "harmful" content, App., *infra*, 106a, 112a, trigger the First Amendment, particularly in light of the inextricable relationship between the allegedly addictive features and the content they present, 239 N.Y.S.3d at 735. No other court treats allegations of an addictive medium as a license to abandon normal First Amendment principles.

* * *

In holding that neither Section 230 nor the First Amendment protects editorial decisions about how to display third-party content, the Nevada Supreme Court is an outlier. Some appellate courts have correctly recognized that Section 230 and the First Amendment create "overlap[ping]" protections for "editorial discretion." *Computer & Communications Industry Ass'n* v. *Paxton*, — F.4th —, 2026 WL 2130729, at *14 (5th Cir. July 24, 2026). Another court has treated those protections as mutually exclusive and grounded protection for expressive editorial decisions in the First Amendment rather than Section 230. *Anderson*, 116 F.4th at 184. But the Nevada Supreme Court concluded that neither Section 230 nor the First Amendment has anything to say about Nevada's effort to make its own editorial judgments for social-media services: how much content can appear at once, how long content must appear, whether likes or other reactions can be displayed, and whether users can be told when new content is available. That misguided approach warrants this Court's review.

B. The Questions Presented Are Exceptionally Important.

This case presents questions of great legal and practical importance. For hundreds of millions of Americans, social media is now an integral part of daily life. But a plethora of States, local governments, school districts, and individual plaintiffs have taken aim at those online forums—and with them, our longstanding national commitment to freedom of expression—through thousands of lawsuits seeking to impose liability for social-media services' presentation of third-party content. The decision below tears down constitutional and statutory safeguards for online publication and undermines protections that the Framers and Congress embraced.

The adverse impact of that error and of the uncertainty from the lower-court conflicts is hard to overstate. As the Court has observed, social-media services are "inescapable," "structur[ing] how we relate to family and friends, as well as to businesses, civic organizations, and governments." *Moody*, 603 U.S. at 716. They "create unparalleled opportunities" to "make our lives better." *Ibid.* Yet online providers—from Meta to Google, ByteDance, Snap, and Discord, all of which have been sued—can operate *only* by "cull[ing] and organiz[ing]" the "staggering amount of content" that users create every day. *Id.* at 719. The decisions they must make about "what third-party speech to display and how to display it" are critical editorial choices that define their respective services. *Id.* at 716.

This Court need not and should not let lower courts remain fractured on these fundamental questions. Congress created a nationally uniform rule by displacing "State [and] local law." 47 U.S.C. § 230(e)(3). And "[u]nder a National Constitution, fundamental First Amendment limitations on the powers of the States do not vary from community to community." *Miller* v. *California*, 413 U.S. 15, 30 (1973). But the reasoning of the decision below allows a host of public and private plaintiffs to wield state law to commandeer editorial decisions concerning how to organize and display content on all manner of online services. Permitting States to apply their own laws to impose potentially inconsistent duties on Meta regarding its traditional editorial functions will replace the uniform "policy of the United States," 47 U.S.C. § 230(b), with an untenable patchwork of conflicting obligations. Ultimately, it could allow individual States to reshape online platforms through state tort law and work a seismic change in the way this Nation communicates.

This Court's intervention is needed now. Backed by private plaintiffs and local governments, many States have launched a coordinated assault under their own tort laws against Congress's and the Framers' considered decisions to protect editorial decisions. *See* p. 8, *supra*. And litigants also are already holding up the Nevada Supreme Court's recent decisions as a model for other courts to follow. *E.g.*, Appellant's Reply Br. at 43-44, *Vancouver School District No. 37* v. *Meta Platforms, Inc.*, No. B340662 (Cal. Ct. App. Feb. 11, 2026), 2026 WL 509473. Without clear guidance from this Court, lower courts will continue to reach inconsistent decisions imposing incompatible obligations on Meta regarding its editorial decisions on how to display third-party content on its services.

III. THIS CASE IS AN EXCELLENT VEHICLE.

This case is an excellent vehicle for the Court to address both questions presented. The Nevada Supreme Court fully decided both questions presented as pure questions of law. Either question will be outcome determinative on the State's design-defect and related claims and will substantially alter the analysis on the remaining claims. A better vehicle for addressing these questions is unlikely to arise soon.

The petition offers a clean shot for this Court to resolve the questions presented. In contrast to a facial preenforcement challenge that would require this Court to hypothesize how Nevada law might be applied in a spectrum of other cases, this petition raises "as-applied challenge[s]" that allow this Court to focus on the specific editorial decisions that the State targets. *Moody*, 603 U.S. at 747 (Barrett, J., concurring). The state supreme court squarely rejected both as-applied defenses. It held first that Section 230 does not apply because the State's claims "explicitly target the design of [Meta]'s platforms rather than the content of" any third-party material that Meta publishes. App., *infra*, 8a (citation omitted; alteration in original). It then held that the State's claims do not implicate the First Amendment because the State seeks to impose liability on Meta for *how* it publishes third-party content through allegedly "addict[ive]" design features. *Id.* at 2a, 8a (citation omitted). No factual disputes would impede this Court's review of those purely legal rulings.

The state supreme court's resolution of Section 230 and the First Amendment together makes this case an ideal vehicle. The two questions are inextricably interrelated. To the extent Nevada seeks to hold Meta liable as the publisher of third-party speech, Section 230 bars its claims. And to the extent Nevada can avoid Section 230 by contending that it attacks Meta's own editorial choices, the First Amendment bars its claims. This Court should not consider one half of that equation without addressing the other. Plaintiffs have ping-ponged between the two theories, characterizing editorial decisions as a platform's own choices that fall outside of Section 230, *e.g.*, No. 89922 Resp. Ans. to Writ Pet. 49-50, then flipping around and minimizing those choices as functional design exercises rather than First Amendment expression, *e.g.*, *id.* at 60. Having both theories before the Court is critical to resolving the overriding question whether state law can shape social media's publishing decisions.

Both questions presented also are dispositive of the claims at issue. If this Court were to hold that Section 230 or the First Amendment protects the challenged design features, that decision would at least bar Nevada's claims that are premised on Meta's publication decisions and would likely have significant repercussions for any remaining claims.

No further percolation is needed. Both sides of the Section 230 issue have been fully ventilated in decisions that acknowledge an open and entrenched conflict on the question presented. *See, e.g.*, *Commonwealth* v. *Meta Platforms*, 277 N.E.3d at 180-183. And the state supreme court's reaffirmance of its *TikTok* decision here confirms that the court will not correct course without this Court's intervention. Given the inherently nationwide operation of social-media services, it is untenable to leave Nevada an anti-free-expression enclave.

No superior vehicle is likely in the offing. Despite the large number of suits against social-media services, the vast majority continue to wend slowly through federal and state trial courts, where they may become complicated by factual nuances. Those proceedings will likely take years to reach this Court, if they ever do at all. Meanwhile, erroneous decisions like the one below will warp the protections of Section 230 and the First Amendment. And a decision from this Court clarifying that both provisions bar many of the claims those suits assert would avoid the waste of enormous efforts by courts and parties alike.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted.

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