No. 21-1333

In the Supreme Court of the United States

REYNALDO GONZALEZ, *et al.*,
Petitioners,

v.

GOOGLE LLC,
Respondent.

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

BRIEF OF AMICI CURIAE THE CYBER CIVIL RIGHTS INITIATIVE AND LEGAL SCHOLARS IN SUPPORT OF PETITIONERS

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INTEREST OF AMICI CURIAE

The Cyber Civil Rights Initiative ("CCRI") and the undersigned legal scholars submit this brief as Amici Curiae in support of Plaintiff-Petitioners Reynaldo Gonzalez, et al.[1]

CCRI is a nonprofit organization dedicated to the protection of civil rights in the digital era. CCRI is particularly concerned with abuses of technology that disproportionately impact vulnerable groups. CCRI works with tech-industry leaders, policymakers, courts, and law enforcement to address online abuses including nonconsensual pornography (the unauthorized disclosure of private, sexually explicit imagery, also known as "revenge porn"), "doxing" (the release of private information for the purpose of harassment), and defamation. CCRI provides support to victims of online abuse through its crisis helpline, network of pro bono legal services, and guidelines for navigating the reporting and removal procedures of online platforms. CCRI also works with social media and technology companies to develop policies to prevent misuses of their services and platforms.

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[1] Both parties have given blanket consent for the filing of amicus briefs. Amici state that no party's counsel authored the brief in whole or in part; no party's counsel contributed money that was intended to fund preparing or submitting the brief; and no person—other than Amici—contributed money that was intended to fund preparing or submitting the brief.

CCRI has a particular interest in this case because this Court's interpretation of Section 230 of the Communications Decency Act of 1996, 47 U.S.C. § 230 ("Section 230"), will substantially impact CCRI's ability to advance its mission of protecting vulnerable populations from online harm. To that end, CCRI urges the Court to overrule existing lower-court caselaw that mistakenly grants technology companies virtually limitless immunity for all harms that occur on their platforms—even when they do nothing to address harm, have a pre-existing duty to address harm, or contribute to or profit from harm. CCRI correspondingly urges the Court to underscore Section 230's purpose as a Good Samaritan provision that enables and incentivizes technology companies to harness content-management practices—including the use of algorithmic content-moderation—to protect users from harmful content.

The legal scholar amici have deep expertise in this area of the law and have written extensively about Section 230 and intermediary liability. Their interest in this case is in the sound development of the law.

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INTRODUCTION AND SUMMARY OF ARGUMENT

The text, history, and structure of Section 230 make clear that it is a Good Samaritan statute intended to encourage "interactive computer service providers" (ICSPs) to restrict access to "offensive" or "otherwise objectionable" content when they have no pre-existing duty to do so. 47 U.S.C. § 230(c). However, many courts have wrongly interpreted Section 230 as providing broad immunity to ICSPs for any action involving third-party content. Some courts have treated this immunity as virtually absolute. Others have granted broad immunity so long as an ICSP engaged in so-called "traditional editorial functions" regarding third-party content. Neither approach is correct, and this Court should ensure that its ruling here rests on a proper reading of Section 230.

Lower courts have reached these erroneous results by conflating two provisions in Section 230:

- Section 230(c)(1), which does not speak to immunity at all but merely stipulates that providing access to third-party content does not make an ICSP the "publisher" or "speaker" of that content; and
- Section 230(c)(2), which immunizes ICSPs from liability for actions taken voluntarily to *restrict* access to *objectionable* content.

Contrary to the approaches taken by many lower courts, neither provision provides boundless immunity to ICSPs for harmful third-party content, nor is either one concerned with traditional editorial functions.

Rather, Section 230(c)(1) is a narrow limitation on liability that applies only to speech actions (*i.e.*, common-law defamation and comparable claims), and even more specifically only to such actions that attempt to impose liability on a provider or user of an interactive computer service as though it were the original author of a third-party's speech (known as "republication liability"). Section 230(c)(2) provides broader protection—immunity from, as opposed to mere limitation of, civil liability regardless of what action is brought—but conditioned, as Good Samaritan laws generally are, upon remedial action undertaken voluntarily and in good faith by an actor not otherwise obligated to assist.

This interpretation of these complementary provisions in Section 230(c) is faithful to the text, history, and structure of the law. Moreover, it respects core principles of federalism that protect states' traditional police powers.

Two important consequences flow from the correct interpretation of Section 230(c) outlined above. First, even in the context of claims like defamation, Section 230(c)(1) allows an ICSP to face liability for harmful content provided by third parties so long as the grounds for liability do not require treating the ICSP as a "speaker" or "publisher" of that content. For

example, Section 230(c)(1) allows an ICSP to be held liable under common-law principles as the "distributor" of defamatory content "if, but only if, [it] knows or has reason to know of its defamatory character." RESTATEMENT (SECOND) OF TORTS § 581 (1977). Second, Section 230(c)(2) does not immunize ICSPs that do not act as Good Samaritans—namely, those that do nothing to address harm, that have a pre-existing duty to address harm yet fail to do so, or that contribute to or profit from harm.

Here, Section 230(c) does not immunize Google against Plaintiffs' claims. The Plaintiff's Anti-Terrorism Act claim is not the type of action that depends on treating Google as the "speaker" or "publisher" of third-party content for purposes of Section 230(c)(1). Likewise, Google is not immune under Section 230(c)(2) because Plaintiffs' claims do not seek to hold Google liable for actions taken voluntarily to restrict access to objectionable content.

That being said, the absence of immunity is not synonymous with the presence of liability. Amici take no position as to whether the actions Google did allegedly take in this case—making targeted recommendations of and sharing in the revenue created by terrorist content—should result in liability for Google under the claims asserted by Plaintiffs.

Amici emphasize that this case cannot be correctly decided by focusing on "traditional editorial functions" or by trying to craft a general rule about whether "targeted algorithms" fall within Section 230's immunity provision. While the targeted algorithms

alleged in this case served to *increase* access to harmful content, such algorithms can equally be used to voluntarily and in good faith *restrict* access to objectionable content, which is expressly what Section 230(c)(2) protects. Section 230 explicitly rewards ICSPs and their users for restricting access to harmful content with no limitation (editorial or otherwise) of the technical means for fulfilling that purpose. To categorically deny immunity to an ICSP for using targeted algorithms would directly contradict Section 230(c)(2) and finds no support in Section 230(c)(1). Such an interpretation would also have a devastating impact on the victims of online abuse by dissuading Good Samaritan ICSPs from using targeted algorithms to remove, restrict, or otherwise reduce the accessibility of harmful material, including nonconsensual pornography.

Lower courts have wrongly read Section 230 to award ICSPs unconditional immunity from liability no matter how passive they remain in the face of even easily preventable and clearly foreseeable harm, or even how actively they may promote or profit from that harm. This erroneous interpretation distorts Section 230 in several ways. It directly contradicts the statute's stated goals of incentivizing ICSPs to restrict and deter harmful content and ensuring "vigorous enforcement of Federal criminal laws to deter and punish trafficking in obscenity, stalking, and harassment by means of computer." 47 U.S.C. § 230(b)(5). It makes Section 230 incomprehensible as a Good Samaritan law, which its text, title, and history clearly indicate it to be. It preempts vast

swaths of state law, violating principles of federalism. And it grants the tech industry special and unjustified privileges over other industries and individuals. The Court should therefore clarify the meaning of both Section 230(c)(1) and (c)(2).

ARGUMENT

I. This Court Should Construe Section 230(c) in Accordance with its Text, Structure, and History as a Preemption Provision with a Limited and Narrow Scope.

A. As with any question of statutory construction, this Court's interpretation of Section 230(c) must begin with the plain text of the law. *See Rotkiske v. Klemm*, 140 S. Ct. 355, 360 (2019). Entitled "Protection for 'Good Samaritan' blocking and screening of offensive material," Section 230(c) contains two subsections.

Section 230(c)(1) provides 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). Section 230(c)(2), provides in relevant part that "[n]o provider or user of an interactive computer service shall be held liable on account of . . . any action voluntarily taken in good faith to restrict access to or availability of material that the provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable." *Id.* § 230(c)(2).

Section 230(e) confirms the preemptive effect of these provisions, stating that "[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).

Thus, on its face, Section 230 does not broadly immunize ICSPs against any and all state-law claims involving content submitted by third parties. Rather, the text addresses two specific circumstances:

- Under Section 230(c)(1), merely providing access to third-party content does not make an ICSP the "publisher" or "speaker" of that content; and
- Under Section 230(c)(2), an ICSP is immune from liability for actions taken voluntarily and in good faith to restrict access to objectionable content.

Cases reading Section 230 to have a broader preemptive effect than provided for in (c)(1) and (c)(2) have departed from the statutory text.

B. These textual boundaries on Section 230's liability limitations are consistent with the law's history, which provides insight into the specific problems Congress sought to remedy and the means it chose for achieving those ends. *See Stewart v. Dutra Constr. Co.*, 543 U.S. 481, 487 (2005) (recognizing the utility of examining the legal "backdrop against which Congress" acted).

Two defamation cases decided in the early days of the commercial Internet prompted Congress to enact Section 230.

The first was *Cubby, Inc. v. CompuServe, Inc.*, 776 F. Supp. 135 (S.D.N.Y. 1991), where a federal district court held that CompuServe, an early internet service provider, could not be liable for defamatory content posted on one of its forums because it had no notice of its unlawful nature. Because CompuServe made no effort to screen content, the federal court found that the service had no notice and therefore no liability. *Id.* at 139–42.

The second was *Stratton Oakmont, Inc. v. Prodigy Servs. Co.*, No. 31063/94, 1995 WL 323710 (N.Y. Sup. Ct. May 24, 1995), where a state trial court held that another early internet service provider, Prodigy Services Co., was liable for defamatory content on its platform because the site had made attempts to screen content for offensiveness. *Id.* at *4. The state court characterized this screening as "editorial control," rendering Prodigy a "publisher" for purposes of defamation law. *Id.*

Taken together, the rulings seemed to stand for the proposition that ICSPs risked publisher liability if they attempted to screen or block certain content, but could avoid publisher liability if they did not.

Then-Congressman Chris Cox, one of Section 230's chief sponsors, criticized the *Prodigy* ruling as "backward," maintaining that internet service providers should be encouraged, not discouraged, from "do[ing] everything possible for us, the customer,

to help us control, at the portals of our computer, at the front door of our house, what comes in and what our children see." 141 Cong. Rec. H8460-01, at 8469 (Aug. 4, 1995).

Thus, the crafters of Section 230 did not seek to relieve ICSPs of any responsibility for harmful content appearing on their platforms. On the contrary, they intended Section 230 to enable and incentivize ICSPs to moderate content to protect users from harm. As the House Committee Report on the law explained:

> [Section 230] provides "Good Samaritan" protections from civil liability for providers or users of an interactive computer service for actions *to restrict or to enable restriction of access to objectionable online material.* One of the specific purposes of this section is to overrule *Stratton-Oakmont v. Prodigy* and any other similar decisions which have treated such providers and users as publishers or speakers of content that is not their own *because they have restricted access to objectionable material.*

H.R. Conf. Rep. No. 104–458, at 194 (1996) (emphases added).

These overarching goals of encouraging ICSPs to take affirmative, voluntary steps to remove harmful material were also codified in the law itself. Section 230 announces that it is "the policy of the United States" to "encourage the development of technologies which maximize user control over what information is

received by individuals, families, and schools who use the Internet and other interactive computer services," and to "remove disincentives for the development and utilization of blocking and filtering technologies that empower parents to restrict their children's access to objectionable or inappropriate online material." 47 U.S.C. § 230(b).

C. Additional insight into the scope of Section 230(c) can be drawn from the specific terms of art Congress used in crafting that provision. After all, when "a word is obviously transplanted from another legal source, whether the common law or other legislation, it brings the old soil with it." *Stokeling v. United States*, 139 S. Ct. 544, 551 (2019) (internal citation and quotation marks omitted).

1. The key terms in Section 230(c)(1)—"publisher" and "speaker"—derive their "legal significance from the context of defamation law." *Henderson v. Source for Pub. Data, L.P.*, 53 F.4th 110, 121 (4th Cir. 2022) (citations and quotation marks omitted); *see also* Danielle Keats Citron & Benjamin Wittes, *The Internet Will Not Break: Denying Bad Samaritans § 230 Immunity*, 86 FORDHAM L. REV. 401, 415 (2017).

At common law, defamation liability extended not only to the original speaker of a defamatory statement, but also to any "publisher" of the statement. *See* RESTATEMENT (SECOND) OF TORTS § 578 (1977) ("[O]ne who repeats or otherwise republishes defamatory matter is subject to liability as if he had originally published it."). Liability of this nature extended to publishers such as newspapers,

magazines, and book publishers, *see id*., cmt. b, as well as to televisions and radio broadcasters, *see id.* § 581(2). Other speech- or information-based "torts at common law follow this mold, imposing liability on publishers for the improper nature of their disseminated content." *Henderson*, 53 F.4th at 122 n.15. (identifying as examples claims based on false-light invasion of privacy and publicity given to private life).

However, status as "publisher" under the common law did not depend in any way on the exercise of "traditional editorial functions—such as deciding whether to publish, withdraw, postpone or alter content." *Zeran v. America Online, Inc.*, 129 F.3d 327, 330 (4th Cir. 1997). Rather, a "publisher" was anyone who "communicat[ed]" defamatory matter "intentionally or by a negligent act to one other than the person defamed." RESTATEMENT (SECOND) OF TORTS § 577(1).

Furthermore, "[d]efamation at common law distinguished between *publisher* and *distributor* liability." *Id*. at 121 n.12 (emphases added). While a publisher was strictly liable for carrying defamatory matter, a distributor who only "delivers or transmits defamatory matter published by a third person is subject to liability if, but only if, he knows or has reason to know of its defamatory character." RESTATEMENT (SECOND) OF TORTS § 581. This sort of distributor-based liability extended to anyone "transferring or circulating" material they knew or had reason to know was defamatory, including news

dealers, bookstores, libraries, and telegraph operators. *See id.*, cmts. d–f.

The scope of Section 230(c)(1)'s liability limitation therefore becomes clear when viewed through the lens of its common-law antecedents. Section 230(c)(1) neither operates as an all-purpose shield that protects ICSPs against every claim involving third-party content, nor does the scope of its protection turn on whether an ICSP exercised "traditional editorial control" over that content.

Rather, by providing 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," Section 230(c)(1) operates solely to protect ICSPs from *publisher*-based liability for a speech claim where the ICSP has done nothing more than provide access to third-party content.

By its terms, this protection does not extend beyond the kinds of speech claims where "publisher" status has legal significance. Moreover, even in the context of such speech claims, Congress made clear that an ICSP may still face *distributor*-based liability for third-party content an ICSP knew or should have known was harmful. This result follows from the presumption that Congress deliberately omitted the term "distributor" when crafting the protection ICSPs should enjoy for speech claims based on third-party content. *See United States v. Vonn*, 535 U.S. 55, 65 (2002) ("[E]xpressing one item of a commonly

associated group . . . excludes another left unmentioned.").

2. Similarly, the scope of immunity provided in Section 230(c)(2) can be fully understood by referencing the concept of Good Samaritan immunity specifically identified in Section 230(c)'s heading. This heading not only echoes Representative Cox's statement that Section 230 was intended to "protect 'computer Good Samaritans,'" 141 Cong. Rec. H8460–01, at 8470 (Aug. 4, 1995), but provides "a short-hand reference to the general subject matter" Congress meant to apply to the provision, *Trainmen v. Baltimore & Ohio R.R. Co.*, 331 U.S. 519, 528 (1947); *see also* Antonin Scalia & Bryan A. Garner, READING LAW: THE INTERPRETATION OF LEGAL TEXTS 221 (2012) ("Titles and headings are permissible indicators of meaning.").

At common law, a bystander generally has no duty to provide affirmative aid to an injured person, even if the bystander has the ability to help. *See* RESTATEMENT (SECOND) OF TORTS § 314. Instead, a duty to assist an imperiled person arises only in specific circumstances, such as the existence of a special relationship between the parties or where the rescuer is responsible for creating the initial danger. *Id*. §§ 314A, 314B, 321, 322. However, if one voluntarily undertakes to rescue or render aid to a stranger, the rescuer ordinarily assumes a duty and is liable for any physical harm that results from the failure to exercise reasonable care. *Id*. §§ 323, 324. "The result of all this is that the good Samaritan who

tries to help may find himself mulcted in damages, while the priest and the Levite who pass by on the other side go on their cheerful way rejoicing." William L. Prosser & W. Page Keeton, LAW OF TORTS § 56, at 340 (4th ed.1971).

In an attempt to eliminate the perverse incentives of the common-law rules, all states have enacted some form of Good Samaritan legislation. These statutes protect individuals from civil liability for any negligent acts or omissions committed while voluntarily providing emergency aid or assistance. *See* Benjamin C. Zipursky, *Online Defamation, Legal Concepts, and the Good Samaritan*, 51 VAL. U.L. REV. 1, 31–32 (2016); Annotation, *Construction and application of "Good Samaritan" statutes*, 68 A.L.R.4th 294 (1989).

Section 230(c)(2) "is, in fact, a parallel to state Good Samaritan statutes that protect those who voluntarily provide emergency aid. Its aim is to shield (from tort liability) those who voluntarily protect individuals from Internet speech that would harm them; removing such speech or filtering will not generate civil liability; courts will not be allowed to convert an ICSP's affirmative undertaking into a basis for liability." Zipursky, 51 VAL. U.L. REV. at 33.

And, like state Good Samaritan statutes, Section 230(c)(2) includes important limits to the immunity it provides. First, it does not apply when an ICSP is already under an existing duty to act—*i.e.*, where its action to restrict access to objectionable third-party content is not "voluntary." 47 U.S.C. § 230(c)(2). Nor

does it immunize ICSPs that do nothing to address harm or that contribute to or profit from harm. *See id*. (requiring, as a condition of immunity, "action . . . taken" in "good faith").

D. The limited preemptive reach of Section 230 described above is also consistent with the core principles of federalism that underlie this Court's long-standing presumption that "Congress does not exercise lightly the extraordinary power to legislate in areas traditionally regulated by the States." *Arizona v. Inter Tribal Council of Ariz., Inc.*, 570 U.S. 1, 13 (2013) (citations and quotation marks omitted); *see also Rice v. Santa Fe Elevator Corp*., 331 U.S. 218, 230 (1947) ("[Th]e historic police powers of the States were not to be superseded by [federal law] unless that was the clear and manifest purpose of Congress.").

If "Congress intends to alter the usual constitutional balance between the States and the Federal Government, it must make its intention to do so unmistakably clear." *Gregory v. Ashcroft*, 501 U.S. 452, 460 (1991). This "plain statement rule is nothing more than an acknowledgment that the States retain substantial sovereign powers under our constitutional scheme, powers with which Congress does not readily interfere." *Id.* at 461. This presumption against preemption applies, not "only to the question *whether* Congress intended any pre-emption at all," but also to "questions concerning the *scope* of its intended invalidation of state law." *Medtronic, Inc. v. Lohr*, 518 U.S. 470, 485 (1996) (emphases added; citations and quotation marks omitted).

Here, many areas of state law potentially preempted by Section 230(c)(1) undoubtedly implicate states' historic police powers. Section 230(c)(1) has been construed to displace a wide array of state tort and consumer protection claims,[2] which are areas "traditionally occupied by the States," *California v. ARC Am. Corp.*, 490 U.S. 93, 101 (1989) (consumer protection laws), and "deeply rooted in local feeling and responsibility," *San Diego Bldg. Trades Council v. Garmon*, 359 U.S. 236, 244 (1959) (state tort law). Thus, even though Congress expressly intended to displace state actions that are inconsistent with Section 230(c), *see* 47 U.S.C. § 230(e)(3), this Court must still apply a "narrow interpretation of such an express command" in order to ensure that the *scope* of displacement is consistent with this Court's presumption against preemption, *Lohr*, 518 U.S. at 485.

As shown above, Section 230(c)'s statutory text and structure, as well its history and the underlying legal concepts it incorporates, all support a narrow and limited reading of its preemptive scope. Adhering to that reading is also "consistent with both federalism concerns and the historic primacy of state regulation of matters of health and safety." *Lohr*, 518 U.S. at 485.

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[2] A partial list of state claims preempted by Section 230 is provided in Appendix A.

II. Lower Courts Have Wrongly Construed Section 230 to Provide Virtually Unconditional Immunity, Resulting in Harm to Vulnerable Populations.

"Notwithstanding what seems to be a direct message from Congress in the very naming of the statute, it turns out to have been difficult for courts and commentators alike to grasp its main point." Zipursky, 51 VAL. U.L. REV. at 2. Instead, lower "courts have extended the immunity in [Section] 230 far beyond anything that plausibly could have been intended by Congress." Rodney Smolla, 1 LAW OF DEFAMATION § 4:86, at 4–380 (2d ed. 2019).

A. Beginning with the Fourth Circuit in *Zeran*, most state and lower federal courts have interpreted Section 230 as granting ICSPs essentially unconditional immunity in cases involving third-party content—even where they have not tried to restrict access to objectionable content, remain indifferent to such content, or even actively promote, solicit, or contribute to or profit from such content. This interpretation of Section 230 contravenes the text, history, and purpose of the law as providing Good Samaritan protection. Put simply, a law cannot incentivize the rendering of aid if that law is interpreted to confer the same benefit upon those who render aid and those who do not. Interpreting Section 230 to shield ICSPs from liability even when they have done nothing to address harm, or, worse, have participated in, profited from, or solicited harm,

actively undermines Good Samaritan behavior and flouts the policy decision made by Congress.

As a matter of statutory interpretation, the errors committed by *Zeran* and its progeny in interpreting Section 230(c)'s liability shield are almost too numerous to count. To begin with, treating Section 230(c)(1) as a blanket immunity for ICSPs in virtually all claims involving third-party content is a result that is entirely divorced from its narrow textual focus on "publisher" liability. *See Lamie v. U.S. Trustee*, 540 U.S. 526, 534 (2004) ("The starting point in discerning congressional intent is the existing statutory text," and "the sole function of the courts . . . is to enforce it according to its terms.") (citations and quotation marks omitted). Moreover, these decisions improperly wrench Section 230(c)(1) "from its common law antecedents and legislative history" that confirm its focus on defamation liability. Neville L. Johnson et al., *Defamation and Invasion of Privacy in the Internet Age*, 25 SW. J. INT'L L. 9, 23 (2019). And their broad reading of Section 230(c)(1) to oust the states from vast swaths of their traditional police powers undermines principles of federalism that animate this Court's presumption against preemption.

B. This misguided, unconditional-immunity interpretation of Section 230 completely inverts the law's purpose of enabling and incentivizing Good Samaritan conduct. As Judge Easterbrook cogently explained in one lower court decision, this prevailing approach to Section 230 immunity makes ICPSs "indifferent to the content of information they host or

transmit [because] whether they do (subsection (c)(2)) or do not (subsection (c)(1)) take precautions, there is no liability under either state or federal law." *Doe v. GTE Corp.*, 347 F.3d 655 (7th Cir. 2003). Given that "precautions are costly, not only in direct outlay but also in lost revenue from the filtered customers," it follows that ICSPs "may be expected to take the do-nothing option and enjoy immunity under [Section] 230(c)(1)." *Id.* at 660.

Scholars have been equally critical of the way in which *Zeran* and its progeny immunize and even incentivize harmful online conduct. *See* Danielle Keats Citron, *Cyber Civil Rights*, 89 B.U. L. REV. 61, 116 n.377 (2009) ("Nothing in the text, structure, or history of [Section] 230 indicates that it should provide blanket immunity to service providers that do nothing to respond" to harmful content); Mary Anne Franks, *How the Internet Unmakes Law*, 16 OHIO ST. TECH. L.J. 10, 13–14 (2020) ("Of particular concern is how Section 230 has been interpreted to eradicate the concept of collective responsibility, to obliterate the distinction between speech and conduct, and to provide a boon to online entities over their offline counterparts."); Olivier Sylvain, *Intermediary Design Duties*, 50 CONN. L. REV. 203, 239 (2018) (The unconditional-immunity view is "hard to square with a plain reading of the statute," which indicates that the "operative reasons for immunity" involve limiting access to objectionable content.).

This unconditional-immunity approach causes real and ongoing harms. Decisions adopting an

"outlandishly broad" interpretation of Section 230 "have served to immunize platforms dedicated to abuse and others that deliberately host users' illegal activities." Citron & Wittes, 86 FORDHAM L. REV. at 403; *see also* Franks, 16 Ohio St. Tech. L.J. at 14 ("Courts have interpreted Section 230 to protect online classifieds sites from responsibility for advertising sex trafficking, online firearms sellers from responsibility for facilitating unlawful gun sales, and online marketplaces from responsibility for putting defective products into the stream of commerce.").

For example, under this erroneous interpretation, a company can solicit thousands of potentially defamatory statements, "selec[t] and edi[t] . . . for publication" several of those statements, add commentary, and then feature the final product prominently over other submissions—all while enjoying immunity. *Jones v. Dirty World Ent. Recordings LLC*, 755 F.3d 398, 403, 410, 416 (6th Cir. 2014). Similar examples abound. *See Doe v. Backpage.com, LLC*, 817 F.3d 12, 16–21 (1st Cir. 2016) (immunizing ICSP against claim by victims of human trafficking alleging that it deliberately structured its website to facilitate illegal human trafficking); *Herrick v. Grindr LLC*, 765 F. App'x 586, 591 (2d. Cir. 2019) (granting immunity on a design-defect claim concerning a dating application that allegedly lacked basic safety features to prevent harassment and impersonation).

Incentivizing ICSPs to avoid self-regulation of harmful content directly and negatively affects vulnerable individuals. Consider, for example, how an unconditional-immunity approach to Section 230 jeopardizes efforts to eradicate non-consensual pornography online.[3]

Since 2014, Amicus CCRI has worked with tech companies such as Facebook, Twitter, and Google on responses to nonconsensual pornography and other abuses. *See* Mary Anne Franks, "*Revenge Porn" Reform: A View from the Front Lines*, 69 FLA. L. REV. 1251, 1272 (2017); Danielle Keats Citron, HATE CRIMES IN CYBERSPACE (2014). Today, every major tech platform has banned nonconsensual pornography from their services and implemented reporting and removal policies. *Id.* These companies have continued to collaborate with Amicus CCRI and other nonprofit organizations to develop innovative responses to online abuse, including implementing photo-hashing technology and adjusting search-engine algorithms. *Id.*; Danielle Keats Citron*, Sexual Privacy,* 128 YALE L. J. 1870, 1955–58 (2019).

But reading Section 230 to give Bad Samaritans unconditional immunity grants them a competitive advantage and thus seriously compromises CCRI's efforts. ICSPs that devote resources to being Good

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[3] Sometimes referred to as "revenge porn," nonconsensual pornography involves the unauthorized disclosure of sexually explicit images. *See* Danielle Keats Citron & Mary Anne Franks, *Criminalizing Revenge Porn*, 49 WAKE FOREST L. REV. 345, 346 (2014).

Samaritans compete in the marketplace with one hand tied behind their backs, since they allow unscrupulous operators—without fear of liability—to snatch up the lucrative advertising revenue generated by the harmful content that Good Samaritans filter. This radical, super-immunity creates a moral hazard, incentivizing ICSPs to act recklessly in pursuit of profit without fear of liability. *See* Mary Anne Franks, *Moral Hazard on Stilts: 'Zeran's' Legacy*, THE RECORDER (Nov. 10, 2017).

C. The unconditional-immunity interpretation of Section 230 not only advantages Bad Samaritans over good ones, it also gives ICSPs an unintended edge over their offline counterparts. As just one example, it advantages ICSPs over offline actors regarding the scienter that would otherwise lead to civil or criminal liability under state law. See Eric Goldman, *Why Section 230 Is Better Than the First Amendment*, 95 NOTRE DAME L. REV. REFLECTION 33, 38 (2019) (explaining that "Section 230(c)(1)'s immunity does not vary with the [ICSP's] scienter" and that "[i]f a plaintiff alleges that the defendant 'knew' about tortious or criminal content, the defendant can still qualify for Section 230's immunity."). Thus, the owner of a brick-and-mortar bookseller is potentially liable for unlawful material in her store once she is made aware of it, whereas an online bookseller remains immune in the same circumstances.

This view of Section 230 also provides procedural benefits to ICSPs not available to their offline counterparts. "Section 230 offers more procedural

protections, and greater legal certainty, for defendants," by making it much easier for ICSPs to defeat litigation at the motion-to-dismiss stage. *Id.* This spares ICSPs from the risks and expense of litigation, even when they engage in conduct that would subject offline competitors to those threats.

If Congress had meant to grant such a broad business advantage to online entities over their offline competitors, the narrow language of Section 230 would have been a curious way of doing so. As this Court has recognized, "Congress . . . does not, one might say, hide elephants in mouseholes." *Whitman v. Am. Trucking Ass'ns, Inc.*, 531 U.S. 457, 468 (2001).

III. Google Is Not Entitled to Immunity Under Section 230, but Absence of Immunity Is Not the Same as Presence of Liability.

As explained above, Section 230(c)'s text, history, and structure indicate that it shields ICSPs from much less liability than many lower courts have concluded. Section 230(c)(1) provides only that merely facilitating access to third-party content does not make an ICSP the "publisher" or "speaker" of that content for purposes of specific speech-based claims. And Section 230(c)(2) provides only that an ICSP is immune from liability for actions taken voluntarily and in good faith to restrict access to objectionable content.

Neither provision provides boundless immunity to ICSPs for harmful third-party content. Indeed, as noted above, even in the context of claims like

defamation, Section 230(c)(1) allows an ICSP to face liability for harmful content provided by third parties so long as the grounds for liability do not require treating the ICSP as a "speaker" or "publisher" of that content (such as distributor liability where the ICSP knew or had reason to know of the harmful nature of third-party content). Similarly, Section 230(c)(2) does not provide immunity to ICSPs that do nothing to address harm, that have a pre-existing duty to address harm and fail to do so, or that contribute to or profit from harm.

In all events, liability protection under either Section 230(c)(1) or (c)(2) does not depend on whether an ICSP's action can be characterized as a traditional editorial function. Such an inquiry has no basis in the text of the statute or in common-law notions of "publisher" liability. Moreover, at least in the context of defamation, the performance of traditional editorial functions has historically made defamation liability more, not less, likely. It would be nonsensical to immunize an ICSP if it exercises greater control over third-party content, while denying immunity for an ICSP that exercises comparatively little control of the same content, outside of the context of voluntary remedial action as spelled out in Section 230(c)(2).

Thus, in this case, Section 230(c) as properly construed does not apply to Plaintiffs' claims against Google. The Plaintiffs' Anti-Terrorism Act claim is not the type of action that depends on treating Google as the "speaker" or "publisher" of third-party content for purposes of Section 230(c)(1). Likewise, Google is not

immune under Section 230(c)(2) because Plaintiffs' claims do not seek to hold Google liable for actions taken voluntarily to restrict access to objectionable content. Rather, Plaintiffs allege that Google used targeted recommendations to *promote* harmful content to viewers, which is the opposite of a traditional Good Samaritan situation.

However, a blanket rule that Section 230(c) can *never* protect ICSPs using targeted recommendations would be equally inappropriate. That is because—when used differently than alleged here—they represent one kind of voluntary, good-faith action ICSPs can take to restrict access to objectionable content. And that is precisely the kind of Good Samaritan conduct that Section 230(c)(2) expressly immunizes from liability.

Search engines and social media platforms can choose to "downrank" certain harmful results based on a user's inquiries, thereby pushing non-harmful results to the top. For example, an ICSP can push down pro-eating disorders or pro-suicide results for users who seem vulnerable to self-harm. It could accompany this effort by ensuring that support for eating disorders or suicide prevention resources appears first or more prominently than pro-eating disorder results. Search engines also could respond to search terms about child sexual exploitation material or other forms of nonconsensual pornography with results that inform users of criminal laws or provide mental health resources. Indeed, one can easily imagine the inverse of what is alleged in this case—

namely, a search engine making targeted recommendations of de-radicalization resources to users seeking pro-terrorist content, as research supported by Google's Jigsaw aimed to do. See Andy Greenberg, *Google's Clever Plan to Stop ISIS Recruits*, WIRED (Sept. 7, 2016). Not only would immunity be entirely appropriate in these cases, but also a denial of immunity in such cases would directly violate both the text and policy of Section 230(c)(2).

CONCLUSION

The text, history, and structure of Section 230 do not support the broad unconditional-immunity approach taken by many lower courts, including the Ninth Circuit in the decision below. In the course of reversing that decision, the Court should provide guidance to lower courts consistent with the statute's narrow function of protecting ICSPs against defamation liability and incentivizing Good Samaritan conduct. This reading would return to the statue's plain text and thereby restore the proper authority of states to regulate ICSPs through state tort and common law, without being preempted by a bloated, atextual reading of Section 230.

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APPENDIX

APPENDIX OF STATE CIVIL/CRIMINAL CLAIMS AND FEDERAL CIVIL CLAIMS HELD BARRED BY SECTION 230

[Source: Ian C. Ballon, 4 E-COMMERCE AND INTERNET LAW § 37.05[1][C] (2020 ed.)]

State claims:	**Example(s):**
Libel and/or defamation	*Small Justice LLC v. Xcentric Ventures LLC*, 873 F.3d 313 (1st Cir. 2017); *Ricci v. Teamsters Local 456*, 781 F.3d 25 (2d Cir. 2015); *Obado v. Magedson*, 612 F. App'x 90 (3d Cir. 2015); *Westlake Legal Group v. Yelp, Inc.*, 599 F. App'x 481 (4th Cir. 2015); *Jones v. Dirty World Ent. Recordings LLC*, 755 F.3d 398 (6th Cir. 2014); *Johnson v. Arden*, 614 F.3d 785 (8th Cir. 2010); *Caraccioli v. Facebook, Inc.*, 700 F. App'x 588 (9th Cir. 2017); *Silver v. Quora, Inc.*, 666 F. App'x 727 (10th Cir. 2016); *Dowbenko v. Google, Inc.*, 582 F. App'x 801 (11th Cir. 2014); *Bennett v. Google, LLC*, 882 F.3d 1163 (D.C. Cir. 2018)

Negligence	*Herrick v. Grindr, LLC*, 765 F. App'x 586 (2d Cir. 2019; *Green v. Am. Online*, 318 F.3d 465 (3d Cir. 2003); *Riggs v. MySpace, Inc.*, 444 F. App'x 986 (9th Cir. 2011); *Getachew v. Google, Inc.*, 491 F. App'x 923 (10th Cir. 2012); *Klayman v. Zuckerberg*, 753 F.3d 1354 (D.C. Cir. 2014)
Negligent entrustment	*Davis v. Motiva Enters., LLC*, No. 09-cv-00434, 2015 WL 1535694 (Tex. App. Apr. 2, 2015)
Negligent misrepresentation	*Beckman v. Match.com*, No. 2:13-cv-97, 2013 WL 2355512 (D. Nev. May 29, 2013); *Cross v. Facebook, Inc.*, 14 Cal. App. 5th 190 (Cal. Ct. App. 2017); *Schneider v. Amazon.com*, Inc., 31 P.3d 37 (Wash. App. 2001)
Negligent supervision	*Caraccioli v. Facebook, Inc.*, 700 F. App'x 588 (9th Cir. 2017); *Davis v. Motiva Enters., LLC*, No. 09-cv-00434, 2015 WL 1535694 (Tex. App. Apr. 2, 2015)
Negligent undertaking	*Davis v. Motiva Enters., LLC*, No. 09-cv-00434, 2015 WL 1535694 (Tex. App. Apr. 2, 2015)

Intentional or negligent infliction of emotional distress	*Herrick v. Grindr, LLC*, 765 F. App'x 586 (2d Cir. 2019); *Obado v. Magedson*, 612 F. App'x 90 (3d Cir. 2015); *Caraccioli v. Facebook, Inc.*, 700 F. App'x 588 (9th Cir. 2017); *Getachew v. Google, Inc.*, 491 F. App'x 923 (10th Cir. 2012); *Bennett v. Google, LLC*, 882 F.3d 1163 (D.C. Cir. 2018)
Assault	*Klayman v. Zuckerberg*, 753 F.3d 1354 (D.C. Cir. 2014)
Harassment	*Donato v. Moldow*, 865 A.2d 711 (N.J. App. Div. 2005)
False light	*Caraccioli v. Facebook, Inc.*, 700 F. App'x 588 (9th Cir. 2017); *Doe v. Friendfinder Network, Inc.*, 540 F. Supp. 2d 288 (D.N.H. 2008)
Public disclosure of private facts	*Caraccioli v. Facebook, Inc.*, 700 F. App'x 588 (9th Cir. 2017); *Doe v. Friendfinder Network, Inc.*, 540 F. Supp. 2d 288 (D.N.H. 2008)
Intrusion upon seclusion	*Caraccioli v. Facebook, Inc.*, 700 F. App'x 588 (9th Cir. 2017); *Doe v. Friendfinder Network, Inc.*, 540 F. Supp. 2d 288 (D.N.H. 2008)
Tortious interference with	*Small Justice LLC v. Xcentric Ventures LLC*, 873 F.3d 313

contractual or prospective business relations	(1st Cir. 2017); *Kabbaj v. Google Inc.*, 592 F. App'x 74 (3d Cir. 2015); *Nemet Chevrolet, Ltd. v. Consumeraffairs.com, Inc.*, 591 F.3d 250 (4th Cir. 2009); *Bennett v. Google, LLC,* 882 F.3d 1163 (D.C. Cir. 2018)
Breach of contract	*Jurin v. Google Inc.*, 768 F. Supp. 2d 1064 (E.D. Cal. 2011); *Murawski v. Pataki*, 514 F. Supp. 2d 577 (S.D.N.Y. 2007)
Breach of implied contract	*La'Tiejira v. Facebook, Inc.*, 272 F. Supp. 3d 981 (S.D. Tex. 2017)
Breach of the implied duty of good faith and fair dealing	*Hinton v. Amazon.com, LLC*, 72 F. Supp. 3d 685 (S.D. Miss. 2014); *Jurin v. Google Inc.*, 768 F. Supp. 2d 1064 (E.D. Cal. 2011)
Invasion of privacy	*Obado v. Magedson*, 612 F. App'x 90 (3d Cir. 2015); *Carafano v. Metrosplash.com. Inc.*, 339 F.3d 1119 (9th Cir. 2003)
Right of publicity	*Perfect 10, Inc. v. CCBill LLC*, 488 F.3d 1102 (9th Cir. 2007)
Appropriation	*Faegre & Benson, LLP v. Purdy*, 367 F. Supp. 2d 1238 (D. Minn. 2005)

Misappropriation	*Stevo Design, Inc. v. SBR Mktg. Ltd.*, 919 F. Supp. 2d 1112, 1127 (D. Nev. 2013)
Common law or state statutory trademark infringement or dilution	*Lasoff v. Amazon.com Inc.*, No. 17-cv-151, 2017 WL 372948 (W.D. Wash. Jan. 26, 2017); *Free Kick Master LLC v. Apple Inc.*, 140 F. Supp. 3d 975 (N.D. Cal. 2015)
Trade secret misappropriation	*Stevo Design, Inc. v. SBR Mktg. Ltd.*, 919 F. Supp. 2d 1112 (D. Nev. 2013)
Civil theft	*Stevo Design, Inc. v. SBR Mktg. Ltd.*, 919 F. Supp. 2d 1112 (D. Nev. 2013)
Unjust enrichment	*Ascentive, LLC v. Opinion Corp.*, 842 F. Supp. 2d 450 (E.D.N.Y. 2011); *Rosetta Stone Ltd. v. Google Inc.*, 732 F. Supp. 2d 628 (E.D. Va. 2010)
Conversion	*Franklin v. X Gear 101, LLC*, No. 17-cv-6452, 2018 WL 3528731 (S.D.N.Y. July 23, 2018)
Aiding and abetting	*Goddard v. Google, Inc.,* No. 08-cv-2738, 2008 WL 5245490 (N.D. Cal. Dec. 17, 2008)
Click fraud	*Goddard v. Google, Inc.*, 640 F. Supp. 2d 1193 (N.D. Cal. 2009)
Manipulation of search engine results	*Obado v. Magedson*, 612 F. App'x 90 (3d Cir. 2015); *O'Kroley v. Fastcase, Inc.*, 831

	F.3d 352 (6th Cir. 2016); *Kimzey v. Yelp! Inc.*, 836 F.3d 1263 (9th Cir. 2016); *Getachew v. Google, Inc.*, 491 F. App'x 923, 925-26 (10th Cir. 2012); *Dowbenko v. Google, Inc.*, 582 F. App'x 801 (11th Cir. 2014)
Removal of a user video, social media posts, or a person's social media profile	*Riggs v. MySpace, Inc.*, 444 F. App'x 986 (9th Cir. 2011); *Domen v. Vimeo, Inc.*, 433 F.Supp.3d 592 (S.D.N.Y. 2020); *Dipp-Paz v. Facebook*, No. 18-cv-9037, 2019 WL 3205842 (S.D.N.Y. July 12, 2019)
State law violations arising out of a search engine's sale of advertisements triggered by sponsored links	*Parts.com, LLC v. Yahoo! Inc.*, 996 F. Supp. 2d 933 (S.D. Cal. 2013); *Rosetta Stone Ltd. v. Google Inc.*, 732 F. Supp. 2d 628 (E.D. Va. 2010)
State law violations arising out of providing links to user posts	*General Steel Domestic Sales, LLC v. Chumley*, No. 14-cv-01932, 2015 WL 4911585 (D. Colo. Aug. 18, 2015); *Vazquez v. Buhl*, 90 A.3d 331 (Conn. App. 2014)
State law violations arising out of embedding linked content	*Nat'l Ass'n of the Deaf v. Harvard Univ.*, 377 F. Supp. 3d 49 (D. Mass. 2019)

State law violations arising out of disseminating those links via social media direct messages	*Roca Labs, Inc. v. Consumer Opinion Corp.*, 140 F. Supp. 2d 1311 (M.D. Fla. 2015); *Fields v. Twitter, Inc.*, 200 F. Supp. 3d 964 (N.D. Cal. 2016)
State law violations arising out of promoting user posts to be indexed by a search engine	*Small Justice LLC v. Xcentric Ventures LLC*, 873 F.3d 313 (1st Cir. 2017)
State law violations arising out of impersonation in connection with a Twitter account	*Dehen v. Doe*, No. 17-cv-198, 2018 WL 4502336 (S.D. Cal. Sept. 19, 2018)
State law violations arising out of or cancellation of an account	*Mezey v. Twitter, Inc.*, No. 1:18-cv-21069, 2018 WL 5306769 (S.D. Fla. Jul. 19, 2018)
False advertising	*Marshall's Locksmith Serv. Inc. v. Google, LLC,* 925 F.3d 1263 (D.C. Cir. 2019); *Enigma Software Group USA, LLC v. Malwarebytes, Inc.*, 946 F.3d 1040 (9th Cir. 2019)
Ticket scalping	*Hill v. StubHub, Inc.*, 727 S.E.2d 550 (N.C. App. 2012);

	Milgrim v. Orbitz Worldwide, Inc., 16 A.3d 1113 (N.J. Super. 2010)
Waste of public funds	*Kathleen R. v. City of Livermore*, 87 Cal. App. 4th 684 (Cal. Ct. App. 2001)
Premises liability	*Dyroff v. Ultimate Software Group, Inc.*, No. 17-cv-05359, 2017 WL 5665670 (N.D. Cal. Nov. 26, 2017)
Nuisance	*Dart v. Craigslist, Inc.*, 665 F. Supp. 2d 961 (N.D. Ill. 2009); *Dyroff v. Ultimate Software Group, Inc.*, No. 17-cv-05359, 2017 WL 5665670 (N.D. Cal. Nov. 26, 2017)
Wrongful death	*Dyroff v. Ultimate Software Group, Inc.*, No. 17-cv-05359, 2017 WL 5665670 (N.D. Cal. Nov. 26, 2017)
Strict product liability	*Herrick v. Grindr, LLC*, 765 F. App'x 586 (2d Cir. 2019); *Doe v. MySpace, Inc.*, 629 F. Supp. 2d 663 (E.D. Tex. 2009)
Breach of warranty	*Hinton v. Amazon.com, LLC*, 72 F. Supp. 3d 685 (S.D. Miss. 2014); *Inman v. Technicolor USA, Inc.*, No. 11-cv-666, 2011 WL 5829024 (W.D. Pa. Nov. 18, 2011)

State consumer fraud and protection statutes	*Hinton v. Amazon.com, LLC*, 72 F. Supp. 3d 685 (S.D. Miss. 2014); *Doe v. Friendfinder Network, Inc.*, 540 F. Supp. 2d 288 (D.N.H. 2008); *Corbis Corp. v. Amazon.com, Inc.*, 351 F. Supp. 2d 1090 (W.D. Wash. 2004)
Wiretapping/ eavesdropping	*Holomaxx Techs. v. Microsoft Corp.*, 783 F. Supp. 2d 1097 (N.D. Cal. 2011)
Extortion	*Gavra v. Google Inc.*, No. 5:12-cv-06547, 2013 WL 3788241 (N.D. Cal. July 17, 2013)
Unfair competition	*Small Justice LLC v. Xcentric Ventures LLC*, 873 F.3d 313 (1st Cir. 2017); *Caraccioli v. Facebook, Inc.*, 700 F. App'x 588 (9th Cir. 2017)
State Constitution	*Domen v. Vimeo, Inc.*, 433 F.Supp.3d 592 (S.D.N.Y. 2020)
State autographed sports memorabilia statute	*Gentry v. eBay, Inc.*, 99 Cal. App. 4th 816 (Cal. Ct. App. 2002)
State drug dealer liability statute	*Dyroff v. Ultimate Software Group, Inc.*, No. 17-cv-05359, 2017 WL 5665670 (N.D. Cal. Nov. 26, 2017)

State human and civil rights statutes	*Domen v. Vimeo, Inc.*, 433 F.Supp.3d 592 (S.D.N.Y. 2020); *Ebeid v. Facebook, Inc.*, No. 18-cv-07030, 2019 WL 2059662 (N.D. Cal. May 9, 2019); *Nieman v. Versuslaw, Inc.*, No. 12-cv-3104, 2012 WL 3201931 (C.D. Ill. Aug. 3, 2012)
State anti-spamming statutes	*Beyond Systems, Inc. v. Keynetics, Inc.*, 422 F. Supp. 2d 523 (D. Md. 2006)
State human trafficking and victim protection statutes	*Doe No. 1 v. Backpage.com, LLC*, 817 F.3d 12 (1st Cir. 2016); *Backpage.com, LLC v. Hoffman*, No. 13-cv-03952, 2013 WL 4502097 (D.N.J. Aug. 20, 2013); *Backpage.com, LLC v. Cooper*, 939 F. Supp. 2d 805 (M.D. Tenn. 2013); *Backpage.com, LLC v. McKenna*, 881 F. Supp. 2d 1262 (W.D. Wash. 2012)
State "revenge porn" statutes	*GoDaddy.com, LLC v. Toups*, 429 S.W.2d 752 (Tex. App. 2014)
Federal claims	**Example(s):**
First Amendment	*Ebeid v. Facebook, Inc.*, No. 18-cv-07030, 2019 WL 2059662 (N.D. Cal. May 9, 2019)

Computer Fraud and Abuse Act	Holo *Holomaxx Techs. v. Microsoft Corp.*, 783 F. Supp. 2d 1097 (N.D. Cal. 2011); *e360Insight, LLC v. Comcast Corp.*, 546 F. Supp. 2d 605 (N.D. Ill. 2008)
Defend Trade Secrets Act	*Craft Beer Stellar, LLC v. Glassdoor, Inc.*, No. 18-cv-10510, 2018 WL 5505247 (D. Mass. Oct. 17, 2018)
Fair Housing Act	*Chicago Lawyers' Committee for Civil Rights Under Law, Inc. v. Craigslist, Inc.*, 519 F.3d 666 (7th Cir. 2008)
Sherman Act	*Marshall's Locksmith Serv., Inc. v. Google, LLC*, 925 F.3d 1263 (D.C. Cir. 2019)
Title II of the Civil Rights Act of 1964	*Sikhs for Justice, Inc. v. Facebook, Inc.*, 697 F. App'x 526 (9th Cir. 2017)
Title III of the Americans with Disabilities Act	*Nat'l Ass'n of the Deaf v. Harvard Univ.*, 377 F. Supp. 3d 49 (D. Mass. 2019)
Section 504 of the Rehabilitation Act of 1973	*Nat'l Ass'n of the Deaf v. Harvard Univ.*, 377 F. Supp. 3d 49 (D. Mass. 2019)
Lanham Act	*Marshall;s Locksmith Serv., Inc. v. Google, LLC*, 925 F.3d 1263 (D.C. Cir. 2019)
Civil remedies for material constituting or	*Doe v. Bates*, No. 5:05-cv-91, 2006 WL 3813758 (E.D. Tex. Dec. 27, 2006)

containing child pornography	
Civil claims under the Anti-Terrorism Act, Justice Against Sponsors of Terror Acts, and the terrorism sanctions regulations issued pursuant to the International Emergency Economic Powers Act	*Gonzalez v. Google LLC*, 2 F.4th 871 (9th Cir. 2021), *cert. granted*, No. 21-1333, 2022 WL 4651229 (U.S. Oct. 3, 2022); *Force v. Facebook, Inc.*, 934 F.3d 53 (2d Cir. 2019)
Civil claims under the Racketeer Influenced and Corrupt Organizations Act	*Icon Health & Fitness, Inc. v. ConsumerAffairs.com*, No. 16-cv-00168, 2017 WL 2728413 (D. Utah June 23, 2017); *Manchanda v. Google*, No. 16-cv-3350, 2016 WL 6806250 (S.D.N.Y. Nov. 16, 2016)