

No. 26-3460

**IN THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

JANE DOE,

Plaintiff-Appellant,

v.

DISCORD, INC.,

Defendant-Appellee.

On Appeal from the United States District Court
for the Northern District of Ohio, Eastern Division
No. 1:25-cv-01789
Hon. Donald C. Nugent

**BRIEF OF *AMICUS CURIAE*
NATIONAL CENTER ON SEXUAL EXPLOITATION
IN SUPPORT OF APPELLANT AND REVERSAL**

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UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

Disclosure of Corporate Affiliations and Financial Interest

Sixth Circuit

Case Number: 26-3460

Case Name: Doe v. Discord, Inc.

Name of counsel: David C. Harman

Pursuant to 6th Cir. R. 26.1, the National Center on Sexual Exploitation, amicus curiae

Name of Party

makes the following disclosure:

1. Is said party a subsidiary or affiliate of a publicly owned corporation? If Yes, list below the identity of the parent corporation or affiliate and the relationship between it and the named party:

No.

2. Is there a publicly owned corporation, not a party to the appeal, that has a financial interest in the outcome? If yes, list the identity of such corporation and the nature of the financial interest:

No.

CERTIFICATE OF SERVICE

I certify that on October 29, 2026 the foregoing document was served on all parties or their counsel of record through the CM/ECF system if they are registered users or, if they are not, by placing a true and correct copy in the United States mail, postage prepaid, to their address of record.

s/ David C. Harman

This statement is filed twice: when the appeal is initially opened and later, in the principal briefs, immediately preceding the table of contents. See 6th Cir. R. 26.1 on page 2 of this form.

TABLE OF CONTENTS

	Page
DISCLOSURE OF CORPORATE AFFILIATIONS AND FINANCIAL INTEREST	i
TABLE OF CONTENTS.....	ii
TABLE OF AUTHORITIES	iii
INTEREST OF <i>AMICUS CURIAE</i>	1
INTRODUCTION AND SUMMARY OF ARGUMENT	2
ARGUMENT	3
I. Section 230 has been wrongly applied in a way that undermines its original purpose, giving social media companies, rather than children, broad online protections.	3
A. Section 230 was meant to protect children online.	4
B. Sweeping Section 230 immunity has created a marketplace where social media platforms are incentivized to ruthlessly prioritize profit over safety.	9
II. This case is exceptionally important because the district court’s overexpansive interpretation of Section 230 gives license to platforms, like Discord, to design features that harm children.	13
A. Discord’s design features contribute to sexual exploitation, and it has created an environment where its design choices cause harms to thrive.	14
B. Holding platforms accountable for their own design features is the only way to reduce these online harms.	20
CONCLUSION	21
CERTIFICATE OF COMPLIANCE.....	23

TABLE OF AUTHORITIES

Cases

<i>Cubby, Inc. v. CompuServe, Inc.</i> , 776 F. Supp. 135 (S.D.N.Y. 1991)	6
<i>Doe #1 v. MG Freesites, LTD</i> , 676 F. Supp. 3d 1136 (N.D. Ala. 2022)	8
<i>Doe I v. Twitter, Inc.</i> , 148 F.4th 635 (9th Cir. 2025)	7
<i>Doe v. Discord Inc.</i> , No. 1:25-CV-01789, 2026 WL 1067574 (N.D. Ohio Apr. 20, 2026)	13
<i>Doe v. WebGroup Czech Republic, a.s</i> , No. 2:21-CV-02428 SPG(SKX), 2024 WL 3533426 (C.D. Cal. July, 24, 2024)	7
<i>In re: Social Media</i> , 702 F. Supp. 3d 809 (N.D. Cal. 2023)	12
<i>State ex rel. Torrez v. Meta Platforms, Inc.</i> , No. D-101-CV-2023-02838, 2026 N.M. Dist. LEXIS 1 (N.M. First Judicial Dist. Ct., Aug. 6, 2026)	11
<i>Reno v. ACLU</i> , 521 U.S. 844 (1997)	4, 7
<i>Stratton Oakmont, Inc. v. Prodigy Servs. Co.</i> , No. 31063/94, 1995 N.Y. Misc. LEXIS 229 (N.Y. Sup. Ct. May 24, 1995) ..	6

Statutes

47 U.S.C. § 230	2, 5, 6
-----------------------	---------

Other Authorities

<i>Bark's Annual Report 2023</i> , BARK, <i>What Being Online Was Like for Kids in 2023</i>	11
<i>Bark's Annual Report 2025</i> , BARK, Discord is the #3 app flagged for grooming, <i>What Being Online Was</i>	

<i>Like for Kids in 2025</i>	3
<i>Discord Transparency Report: July – September 2022, Discord</i>	14
Graw Leary, Mary, <i>The Indecency and Injustice of Section 230 of the Communications Decency Act</i> , 41 Harv. J.L. & Pub. Pol’y (2018)	4

INTEREST OF *AMICUS CURIAE*¹

Amicus curiae, The National Center on Sexual Exploitation (“NCOSE”), is a nonprofit organization, founded in 1962, that combats sexual exploitation and abuse by advocating in state and federal courts for survivors, engaging in corporate advocacy to encourage companies to adopt responsible and safe practices, and advocating for legislative change that protects survivors and promotes human dignity.

NCOSE writes to elucidate the harmful impact that an overly broad interpretation of Section 230 has on victims of child sexual abuse and exploitation. Technology companies are exploiting erroneously expansive interpretations of the protections afforded by Section 230 to abdicate their duties and underdevelop safety mechanisms to increase profits. As a result, child exploitation and abuse are a common feature of digital communication platforms and victims have been left without recourse. This is inconsistent with Congress’s intent. This case presents an opportunity to this Court to restore interpretation of Section 230 to its text, fulfilling the congressional intent of protecting children online.

¹ All parties have consented to the filing of this amicus brief in the above-captioned matter. No counsel for a party has authored this brief in whole or in part, and no party, party’s counsel, or any other person—other than amici or its counsel—has made a monetary contribution to the preparation or submission of this brief. There is no relationship between The National Center on Sexual Exploitation or its attorneys and petitioners or petitioners’ counsel.

INTRODUCTION AND SUMMARY OF ARGUMENT

Section 230 of the Communications Decency Act, 47 U.S.C. § 230—a tool intended to shield burgeoning social media companies from liability when they screened for offensive content—has become a sword used by the world’s largest, richest companies to shirk responsibility for harms caused by their own choices. The history of the statute and statutory language both show Congress’s demonstrated interest in protecting children online, yet courts – including the district court here – have consistently misinterpreted Section 230 to protect platforms instead, incentivizing platforms to prioritize profit over safety. This case is of exceeding importance because its outcome will dictate whether Discord and platforms like it can get away with creating online environments that knowingly harm children. Discord’s platform allows child exploitation and other harms to thrive, and the only way to reduce these harms is to hold Discord accountable. This Court can and should reverse the district court on all counts and clarify that the text of Section 230 does not immunize social media platforms like Discord from liability for harms stemming from their own acts that do not fall within a traditional publisher function, such as misrepresentations or faulty safety settings.

ARGUMENT

I. SECTION 230 HAS BEEN WRONGLY APPLIED IN A WAY THAT UNDERMINES ITS ORIGINAL PURPOSE, GIVING SOCIAL MEDIA COMPANIES, RATHER THAN CHILDREN, BROAD ONLINE PROTECTIONS.

Social media has changed in unimaginable ways since the Communications Decency Act was passed. In 1996, social media hardly existed. Now, modern technology companies boast massive numbers of monthly users and are larger and wealthier than the online service providers of decades ago.² Moreover, the activities in which these platforms are currently engaged go far beyond what social media had been – passive message boards for users to post on. Ninety-five percent of teens aged 13-17 use a social media platform such as Discord.³ Some of these companies charge members for exclusive access to content via subscription services and take a cut of

² Mark Hall, *Facebook*, Britannica Money, <https://www.britannica.com/money/Facebook> (last visited on Oct. 26, 2026) (in 2004 Facebook had 250,000 users within a few short months of launch, in 2012 its IPO was valued at \$102.4 billion, and today Meta’s annual revenue is \$241.61 billion).

³ See Emily A. Gogels, Risa Gelles-Watnick & Navid Massarat, *Teens, Social Media and Technology 2022: TikTok Has Established Itself As One of the Top Online Platforms for U.S. Teens, While the Share of Teens Who Use Facebook Has Fallen Sharply*, Pew Research Center (Aug. 10, 2022), <https://www.pewresearch.org/internet/2022/08/10/teens-social-media-and-technology-2022/>; Discord is the #3 app flagged for grooming, *What Being Online Was Like for Kids in 2025, Bark’s Annual Report 2025*, BARK <https://www.bark.us/annual-report-2025/> (last visited on Oct. 26, 2026)

the fee.⁴ Estimates show that Discord’s revenue is projected to surpass \$1B in 2026.⁵ The large size, widespread use, and scale of these companies means their potential to cause harm is exponentially greater than what Congress contemplated in 1996 when it considered giving *limited* protection to these platforms through the enactment of Section 230. Indeed, more and more the potential of these companies to cause harm is being actualized and countless persons have and continue to suffer serious, sometimes irreversible harm as a result of the tortious actions of social media platforms. To make matters worse, social media companies have argued and courts have held that, despite their heinous conduct, Section 230 provides them with immunity from liability. Such arguments and rulings stand in direct contradiction to the plain language of the statute and Congress’s intent.

A. Section 230 was meant to protect children online.

The Communications Decency Act (“the Act”) was created in part because Congress feared the internet could be used to “spread or expose children to obscene material.”⁶ The Act began as a broad child protection package that imposed criminal

⁴ See Derek Yang, *Announcing Server Subscriptions and the Creator Portal, Now Open to More Communities*, Discord (Dec. 1, 2022), <https://discord.com/blog/server-and-creator-subscriptions>.

⁵ Rohit Swewale, *Discord Revenue Statistics 2026: Growth, ARPU, and Funding*, resorcera (July 24, 2026) <https://resorcera.com/data/social/discord-revenue/>.

⁶ Mary Graw Leary, *The Indecency and Injustice of Section 230 of the Communications Decency Act*, 41 Harv. J.L. & Pub. Pol’y, 553, 559 (2018), <https://journals.law.harvard.edu/jlpp/wp-content/uploads/sites/90/2018/03/LEARY-FINAL.pdf>.

penalties for transmitting obscene and offensive material online, restricted minors' access to obscene material, and removed disincentives for blocking and filtering technology that would allow parents to restrict their children's access to such materials online. *See Reno v. ACLU*, 521 U.S. 844 (1997). Even with the overarching interest of furthering online child protection, Congress was tasked with balancing multiple interests in the legislation. The desire to protect children from indecent online content needed to be balanced with the desire to give the rapidly-developing internet the ability to grow. 47 U.S.C. §230(a). This made sense at the time: the internet was a small, new, untouched industry with unknown economic potential that Congress did not want to stifle by over-regulating.

The balance Congress was looking to strike is highlighted in the five leading policies underscoring Section 230's purpose: to (1) promote the development of the internet; (2) preserve the vibrant free market for interactive computer services; (3) encourage development of technology which maximizes user control over the information that is received by users; (4) remove disincentives for the development and use of blocking and filtering technology that empowers parents to restrict children's access to harmful online content; and (5) "ensure vigorous enforcement" of "criminal laws to deter and punish trafficking in obscenity, stalking, and harassment by means of computer." 47 U.S.C. § 230(b).

Congress's concern for removing disincentives for companies moderating activities on their platforms and affording these companies protection from liability when they engaged in such actions (*see* Section 230(c)) was driven, in part, by a defamation case against an online publisher, in which the court held the publisher was liable for defamatory speech by a third-party poster. *See Stratton Oakmont, Inc. v. Prodigy Servs. Co.*, No. 31063/94, 1995 N.Y. Misc. 229, *10 (N.Y. Sup. Ct. May 24, 1995). At the time, online message boards and similar websites hosting user-generated speech were treated as publishers if they moderated any content. *Id.* This was consistent with the common law, which treated publication of defamation as a strict liability offense, while distributors could only be liable if they knew about the unlawful content. *Cubby, Inc. v. CompuServe, Inc.*, 776 F. Supp. 135, 139 (S.D.N.Y. 1991) (discussing the difference between publisher and distributor liability). Worried that lawsuits mirroring the *Prodigy* case could litigate the fragile new internet into oblivion and disincentivize content moderation, Congress created statutory publisher immunity to prevent an interactive computer service provider from being treated as the publisher of information provided by another information content provider. *See* 47 U.S.C. § 230(c)(1).

Unfortunately, giving internet service providers immunity under 230(c)(1) in exchange for removing disincentives to use blocking and filtering technology has not resulted in a safer internet, nor one that encourages greater user control or

parental involvement. That is because immunity under (c)(1) has been misapplied to (c)(2)'s prohibition of publisher liability (which contains no mention of immunity). This misplaced and inflated protection has turned the purpose of Section 230 on its head. This distortion began when the child safety sections of the Communications Decency Act were struck down for being unconstitutional. *See Reno v. ACLU*, 521 U.S. 844, 849 (1997). Thirty years after severing Section 230 from the other child safety provisions it was attached to, the only policy goal Section 230 has not utterly failed to achieve is enabling the rapid, uninhibited development of the internet.

Many courts today interpret the Communications Decency Act as providing near-total immunity for internet service providers in exchange for nothing. While some courts are starting to push back on blanket assertions of immunity, the well-intentioned platform protection for “Good Samaritan” blocking and screening of offensive material has largely grown into an impenetrable fortress protecting all online service providers, regardless of how they treat offensive or illegal content.

This has even protected some platforms from liability for their *own* illegal conduct. Specifically, some courts have expanded the definition of a publisher function to include activities with no print publishing analogue, and concluded that Section 230 immunizes Child Sexual Abuse Material (“CSAM”) possession and even distribution, both of which are serious federal crimes. *Compare, Doe v. WebGroup Czech Republic, a.s.*, No. 2:21-CV-02428 SPG (SKX), 2024 WL

3533426, at *10 (C.D. Cal. July, 24, 2024) (finding a pornography platform’s use of tags to direct users to “toddler” pornographic content was a “neutral tool” that made their receipt and distribution of CSAM immune from 230 liability); *Doe I v. Twitter, Inc.*, 148 F.4th 635, 640 (9th Cir. 2025) (immunizing platform for possessing, distributing, and failing to remove known CSAM, and finding that publishing activity included “search features that amplify child-pornography posts” and failure to block the mass dissemination of reported CSAM while the content was under review); with *Doe #1 v. MG Freesites, LTD*, 676 F. Supp. 3d 1136, 1163 (N.D. Ala. 2022) (finding that CSAM is not content, but illegal contraband, and that a platform’s creation of thumbnails depicting CSAM is material contribution that is not immunized under Section 230).

Thus, overblown immunity has perverted the original purpose of Section 230 because the very people who it was intended to protect – children – are the ones most hurt by it. In 2025, the National Center on Sexual Exploitation (“NCOSE”) named Section 230 as the target of its “Dirty Dozen List,” highlighting for the first time a law, rather than online entities, that contributes to sexual exploitation.⁷ The campaign highlighted twelve stories about survivors of sexual exploitation who were abused on different online platforms, sought to hold the platforms accountable for

⁷ *The Dirty Dozen List Presents Communications Decency Act Section 230*, National Center on Sexual Exploitation, <https://endsexualexploitation.org/dirty-dozen-list-2025/> (last visited on October 26, 2026).

their role in the exploitation, and had their claims thrown out because of Section 230. These horrific stories of online abuse are unfortunately not unique, and neither is the outcome – that the platforms that caused harm are held to be immune. Section 230 routinely prevents survivors of sexual exploitation from holding online platforms responsible for their grievous injuries even when the platforms’ own acts or omissions contributed to survivors’ exploitation.

Although the point of the Communications Decency Act was to protect children, parents and children have borne the brunt of the harms that improper immunity has created. The internet of 1996 is not the same internet that exists today. The language that should have given parents confidence that the internet is going to be a safer place for their children has become the very tool that prevents them from holding bad actors accountable when their children are harmed online. This Court now has an opportunity to return Section 230’s interpretation and application to alignment with the statutory language and purpose.

B. Sweeping Section 230 immunity has created a marketplace where social media platforms are incentivized to ruthlessly prioritize profit over safety.

For years, there had never been a verdict against a social media company for harms like the ones alleged in this case. No one had insight through discovery into the practices of platforms and could not tell how they were intentionally designed. However, for over a decade, NCOSE conducted extensive research on social media

platforms and investigated reports from parents and survivors to get a comprehensive first-hand look at what an average user experiences in order to see what actually happens on these platforms, and how the platforms respond to reports and complaints.⁸ The results were horrific: NCOSE researchers were bombarded with clear evidence of grooming, CSAM creation and trading, sexual extortion (“sextortion”), and explicit images and conversations on the world’s most popular social media platforms.⁹ They found horrific sexual abuse and exploitation and most shocking: evidence that the platforms knew their products caused harm but refused to fix or prevent these harms. It became clear to NCOSE, after years of advocacy, that Section 230 immunity incentivized this business model that prioritized profit over safety. The harms are well-documented and severe. NCOSE puts each Dirty Dozen List target on notice by sending a letter with documented proof of the harms, recommends practical and possible solutions, and asks to meet with the platform to discuss changes that would increase safety for minors. Many platforms ignore these letters, evidence, and recommended fixes.

⁸ See *The [2024] Dirty Dozen List: Instagram*, NATIONAL CENTER ON SEXUAL EXPLOITATION, <https://endsexualexploitation.org/instagram/> (last accessed Oct. 27, 2026).

⁹ *Id.*

For example, in 2024, Instagram, which has been owned and operated by Meta (formerly Facebook) since 2012,¹⁰ was the top social media platform where CSAM offenders reported finding and sharing CSAM, and the second most common platform for sextortion.¹¹ It was also among the top platforms where minors reported potentially harmful experiences in the categories of severe sexual content, severe suicidal ideation, depression, body image concerns, severe bullying, hate speech, and severe violence.¹² Based on these realities, NCOSE provided practical changes for Instagram/Meta to implement to improve the safety of the platform for minors and directly brought these harms and solutions to Instagram's attention. Instagram/Meta disregarded these solutions.

Earlier this year, Meta was found liable for the exact harms that NCOSE brought to its attention, and more, including misleading consumers about the platform's safety, endangering children, sexual abuse, and intentional addiction of minors to its platforms. *See State ex rel. Torrez v. Meta Platforms, Inc.*, No. D-101-

¹⁰ *Facebook to Acquire Instagram*, (Apr. 9, 2012), <https://about.fb.com/news/2012/04/facebook-to-acquire-instagram/>.

¹¹ *The [2024] Dirty Dozen List: Instagram*, NATIONAL CENTER ON SEXUAL EXPLOITATION, <https://endsexualexploitation.org/instagram/> (last accessed Oct. 27, 2026).

¹² *See What Being Online Was Like for Kids in 2023, Bark's Annual Report 2023*, BARK, https://www.bark.us/annual-report-2023/?sm_guid=MTAxNTQ0Nnw3ODAxMjM3NXwtMXxsbW9yaWNAbmNvc2UuY29tfDg4NTI4ODV8fDB8MHwzMjIzMzY5NTF8MTEzMnwwfDB8fDE4NDQ1NjN8MA2 (last accessed Oct. 27, 2026).

CV-2023-02838, 2026 N.M. Dist. LEXIS 1 (N.M. First Judicial Dist. Ct., Aug. 6, 2026). Meta was found to have facilitated child sexual exploitation by enabling predators to target children on its platforms and made new methods of exploitation, like sextortion, increasingly common. Meta’s liability in New Mexico totaled \$375 million in civil penalties.¹³

Likewise, Snapchat, a frequent target of the Dirty Dozen List, is engaged in similar litigation that alleges the platform’s features “contributed to serious mental health injuries in children and teens.”¹⁴ As with Meta, NCOSE notified Snap of dangerous features on its platform that showed clear de-prioritization of safety in exchange for growth and user engagement.¹⁵ Snapchat is the top app for sextortion, and former employees even share that Snap does not take safety seriously, like when it rolled out its AI chatbot for minors without adequate testing.¹⁶ NCOSE pointed to specific fixes that would make Snap safer, and the suggestions were ignored. As a result of these major lapses in safety, numerous state Attorneys General are pursuing

¹³ *New Mexico Department of Justice Wins Landmark Verdict Against Meta*, NEW MEXICO DEPARTMENT OF JUSTICE, (Mar. 24, 2026), <https://nmdoj.gov/press-release/new-mexico-department-of-justice-wins-landmark-verdict-against-meta/>.

¹⁴ *Snapchat Lawsuits: Case Overview*, MOTLEY RICE, <https://www.motleyrice.com/social-media-lawsuits/snapchat> (last visited Oct. 27, 2026) (Snap is the parent company of Snapchat.).

¹⁵ *See Why is Snapchat on the 2026 Dirty Dozen List?*, NATIONAL CENTER ON SEXUAL EXPLOITATION, <https://endsexualexploitation.org/snapchat/> (last visited Oct. 27, 2026).

¹⁶ *Id.*

Snapchat for its intentional choices that expose children to predictable harms. *See In re: Social Media*, 702 F. Supp. 3d 809, 817, 829 (N.D. Cal. 2023) (accusing Snapchat and other social media platforms of addicting children, which results in severe mental and behavioral health issues). Meta and Snapchat are just two examples that highlight in detail how social media platforms have knowingly facilitated the mass sexual abuse of children.

The horrors uncovered by NCOSE and these lawsuits demonstrates what happens when social media companies enjoy broad immunity – they intentionally design their platforms to increase profits regardless of the harm that their platforms may cause. Without the risk of litigation and facing consequences for their design choices, there is no incentive to design safer platforms or make changes to protect against egregious harms they are causing – even when they know of these harms and how to prevent them.

II. THIS CASE IS EXCEPTIONALLY IMPORTANT BECAUSE THE DISTRICT COURT’S OVEREXPANSIVE INTERPRETATION OF SECTION 230 GIVES LICENSE TO PLATFORMS, LIKE DISCORD, TO DESIGN FEATURES THAT HARM CHILDREN.

Sweeping immunity afforded to companies like Discord by Section 230 has facilitated extreme online harms to children. Discord has no motivation to design safe platforms for minor users because, based on *Discord’s* reading of Section 230, there are no avenues to hold it accountable for failing to put child safety first.

Although it claims to put safety at the forefront of development,¹⁷ the harms that minors have suffered on Discord show that there are major gaps between what the company represents and the reality of many children’s online experience. Indeed, despite its repeated representations that its platform is safe for children, numerous children using Discord’s platform suffer the harms of child sexual abuse material, sextortion, sexual assault, kidnapping, and other serious harms.

A. Discord’s design features contribute to sexual exploitation, and it has created an environment where its design choices cause harms to thrive.

Discord claims to have “zero tolerance” for sexual exploitation and has represented itself as a safe place for children to spend their time interacting and socializing with others.¹⁸ But the platform’s very design features—not just communications on the platform—contribute to an outsized risk of sexual exploitation. For example, Discord’s platform lacks meaningful age verification to prevent minors from being contacted by adults on the platform, includes features that allow adult pedophiles to pose as children, permits adults to contact and “friend” minors on the platform, enables adults to send children CSAM through private

¹⁷ Compl. at ¶¶ 25–30, *Doe v. Discord Inc.*, No. 1:25-CV-01789.

¹⁸ See *Discord Transparency Report: July – September 2022*, Discord, <https://discord.com/blog/discord-transparency-report-q3-2022> (last visited on Sept. 29, 2026).

chatrooms, includes private servers, and lets adults maintain “members-only” chatrooms that are secretive and prevent outsiders from viewing what goes on inside.

The risks associated with the design of Discord’s platform have been known for years. Civil and criminal cases document repeated allegations of harm because of Discord’s design beginning immediately after Discord’s public release in 2015.¹⁹ Between 2016 and 2018, multiple male predators “conspired to befriend... and sexually exploit” more than 170 identified child victims, some as young as ten years old, that they met through Discord.²⁰ These men used Discord’s invitation-only chatrooms to pose as children and persuade the child victims to record sexually explicit content, which was then shared on the defendants’ separate “members-only” chatroom.²¹ In 2019, Discord’s private chat rooms were again used by predators to share child pornography and teach other users how to exploit children on the platform by using child pornography.²² In a recent example, on October 15, 2026, New Jersey’s deputy attorney general was arrested for allegedly using AI to make

¹⁹ See *About Discord*, Discord, <https://discord.com/company> (last visited on Sept. 29, 2026).

²⁰ Press Release, U.S. Dep’t of Justice, *Ten Men Sentenced to Prison for Their Roles in a Child Exploitation Enterprise and Conspiracy* (Oct. 1, 2020), <https://www.justice.gov/opa/pr/ten-men-sentenced-prison-their-roles-child-exploitation-enterprise-and-conspiracy>.

²¹ *Id.*

²² See Press Release, U.S. Att’y’s Office, E.D. Pa., *North Carolina Man Sentenced to 17 years for Engaging in an Internet-Based Child Pornography Conspiracy* (Oct. 1, 2020), <https://www.justice.gov/usao-edpa/pr/north-carolina-man-sentenced-17-years-engaging-internet-based-child-pornography>.

sexualized images of minors, which he then shared on his Discord account under the username “thegentlemanpervert.”²³ He was caught because the National Center for Missing and Exploited Children received a tip that he was sharing the illegal images.

The alleged harms caused by Discord’s design features have also been recognized in lawsuits brought by Attorneys General across the United States, seeking to hold Discord accountable for its own misrepresentations and deceptive practices around child safety, and its failure to design a platform that protects children. In April 2025, the Attorney General of New Jersey sued Discord, alleging violations of the state’s consumer-fraud laws based on representations about the effectiveness of Discord’s child-safety controls and Safe Direct Messaging features.²⁴ In May 2026, the Attorney General of Texas filed a lawsuit against Discord alleging that the platform allowed child predators to groom and exploit children, namely a thirteen-year-old girl and a fifteen-year-old boy, while deceiving

²³ Ashley Belanger, “*thegentlemanpervert*” producing AI CSAM is a NJ Prosecutor, *Say Cops*, ARS Technica (Oct. 16, 2026), <https://arstechnica.com/tech-policy/2026/10/thegentlemanpervert-producing-ai-csam-is-a-nj-prosecutor-say-cops/>.

²⁴ *AG Platkin Sues Messaging App “Discord” for Unlawful Practices That Expose NJ Kids to Child Predators and Violent, Sexual Content* (April 17, 2025), State of New Jersey Department of Law & Public Safety, <https://www.njoag.gov/ag-platkin-sues-messaging-app-discord-for-unlawful-practices-that-expose-nj-kids-to-child-predators-and-violent-sexual-content/>.

consumers, parents, and the public about the safety of its platform.²⁵ Similar to the instant case, the Texas action challenged Discord’s representations that safety is “at the core of everything we do” and “fully integrated into our design process.”²⁶ The Texas suit highlights how Discord’s design features continue to place child users in danger, alleging the platform defaulted account settings toward greater exposure, relied on unpaid volunteers for critical safety functions, and maintained an “architecture that federal prosecutors have described as ‘a hunting ground to find, manipulate, and sextort our most vulnerable.’”²⁷

Earlier this year, Nevada sued Discord for failing to enforce minimum-age requirements and adequately limit interactions between adults and minors.²⁸ In the most recent case filed against Discord in October 2026, the Florida Attorney General

²⁵ *Attorney General Ken Paxton Files Landmark Lawsuit Against Discord for Deceiving Parents and Exposing Texas Children to Child Predators* (May 22, 2026), <https://www.texasattorneygeneral.gov/news/releases/attorney-general-ken-paxton-files-landmark-lawsuit-against-discord-deceiving-parents-and-exposing>.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Attorney General Ford Sues Online Platform Discord for Failing to Protect Nevada Children* (May 5, 2026), Nevada Attorney General Aaron Ford, https://ag.nv.gov/News/PR/2026/Attorney_General_Ford%C2%A0Sues%C2%A0Online_Platform%C2%A0Discord_for_Failing_to%C2%A0Protect_Nevada_Children/.

alleged that Discord continued the same pattern of conduct, and that “[p]redators seeking to abuse Florida children love Discord.”²⁹

In addition to what has come to light as a result of litigation, NCOSE has documented that predators regularly use Discord to commit crimes, crimes often enabled by Discord’s lax safety policies. NCOSE researchers have found that predators have used Discord to coerce children into sending them CSAM, and frequently use GenAI to create images depicting minors, which they trade on Discord.³⁰ There are even servers dedicated to trading CSAM and pornography.³¹ Although Discord publicly professes, “[s]afety is at the core of everything we do,” and claims to “factor safety into everything we do as we design, build, launch, and manage a new product[.]”³² NCOSE researchers found that the “safety features” Discord bragged about failed to work as advertised and were easily bypassed. For example, Teen Safety Assist, the safety feature Discord touted that was supposed to automatically blur explicit images by default, did not work, as researchers were able

²⁹ See Compl. at ¶ 1, *Florida v. Discord, Inc.* (Fla. 20th Jud. Cir. Ct. Glades Cty. Oct. 15, 2026), <https://www.courthousenews.com/wp-content/uploads/2026/10/Florida-attorney-general-v-discord-complaint.pdf>.

³⁰ NCOSE, *Why Discord is On the Dirty Dozen List 4 Years in a Row*. National Center on Sexual Exploitation (Mar. 14, 2025), <https://endsexualexploitation.org/articles/why-discord-is-on-the-dirty-dozen-list-4-years-in-a-row/>.

³¹ *Id.*

³² See Compl. at ¶ 35, *Florida v. Discord, Inc.*, (Fla. 20th Jud. Cir. Ct. Glades Cty. Oct. 15, 2026), <https://www.courthousenews.com/wp-content/uploads/2026/10/Florida-attorney-general-v-discord-complaint.pdf>.

to send sexually explicit content from an adult account to a dummy 13-year-old account, and “no warning or resources were displayed.”³³ NCOSE reached out to Discord in 2023 to share the results of the safety testing and show evidence of the prevalence of CSAM sharing on their platform, but were met with silence. This came before Discord’s CEO was subpoenaed to testify before Congress, where he represented under oath that Teen Safety Assist was “on by default.”³⁴

For the past five years, Discord has been a target on NCOSE’s Dirty Dozen List.³⁵ The reasons are numerous: Discord’s design “allows high-risk on-ramps for exploitation and policy enforcement is often reactive and lax,” “the platform places too much responsibility on its users to moderate and report harmful activity,” and organized criminal networks have been documented on Discord to “share tactics, recruit victims, and coordinate sextortion at a larger scale.”³⁶ Despite regular reports to Discord to point out these dangers, the problems persist. Absent a means to hold Discord liable for its own actions, Discord has little incentive to make meaningful changes to its platform that would stem the damage it continues to cause.

³³ *Supra* n.30.

³⁴ Lily Moric, *Senate Judiciary Committee Grills Big Tech CEOs on Failure to Protect Children*, National Center on Sexual Exploitation (Jan. 31, 2024), <https://endsexualexploitation.org/articles/senate-judiciary-committee-grills-big-tech-ceos-on-failure-to-protect-children/>.

³⁵ See The Dirty Dozen List; Discord: From Gaming Chat to Grooming Pipeline, National Center on Sexual Exploitation, <https://endsexualexploitation.org/discord/> (last visited Oct. 27, 2026).

³⁶ *Id.*

B. Holding platforms accountable for their own design features is the only way to reduce these online harms.

Plainly, Discord does not adequately protect the child users it markets to, and it continues to push a platform design it knows lacks necessary safety features. The Villanova University Charles Widger School of Law Institute to Address Commercial Sexual Exploitation has observed:

“Meaningful reform would include default safety settings for minors, stronger age verification, limits on direct messaging between adults and minors, and professional moderators trained to detect grooming behaviors. The vulnerabilities in the structure of Discord are known to predators, enabling harm at scale. Until platforms are required to address how their design can facilitate exploitation, private servers will continue to enable public harm.”³⁷

The cases described above illustrate the human consequences underlying this observation.

Time and time again, Discord has announced that it would implement changes and has failed to do so. In 2023, Discord said that it would proactively blur sexually explicit content for teen users as the default but then failed to implement those changes months later.³⁸ Most recently, in September 2026, the platform shared

³⁷ Schuyler Gebhardt, *Built for Connection, Vulnerable to Exploitation: The Case of Discord*, The Villanova Law Institute to Address Commercial Sexual Exploitation (February 23, 2026), <https://cseinstitute.org/built-for-connection-vulnerable-to-exploitation-the-case-of-discord/>.

³⁸ See Lina Nealon, *Congress Must Force Big Tech to Protect Children From Online Predators*, The Hill (January 30, 2024), <https://thehill.com/opinion/technology/4431796-congress-must-force-big-tech-to-protect-children-from-online-predators/>

updated teen safety settings.³⁹ However, these changes are too little, too late, and do not account for all of the children harmed by the platform's design.

The harms associated with Discord are not hypothetical possibilities. Children have been groomed, sexually exploited, extorted, and subjected to the production and distribution of CSAM through communications conducted on the platform. Discord could have designed a safer product, or it could have been honest about the product it had. Instead, Discord chose to enable and profit from those harms and must be held accountable.

CONCLUSION

Overbroad misinterpretations of Section 230 have prevented victims from seeking redress for harms caused by social media platforms. Amici respectfully requests that this Court interpret Section 230 according to its plain language and purpose and reverse the District Court to avoid insulating tech companies from suits that seek to hold them liable for their own choices.

³⁹ Discord, *What Protections Do You Get in the Teen Age Group?* (September 23, 2026), <https://support.discord.com/hc/en-us/articles/42178056096663-What-Protections-Do-You-Get-in-the-Teen-Age-Group>.

Date: October 29, 2026

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CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume limitation for an amicus brief, set by Fed. R. App. P. 29(a)(5) and Fed. R. App. 32(a)(7) because it contains 5,460 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f) and 6th Cir. R. 32(b)(1). This brief also complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because this brief has been prepared in proportionally spaced typeface (Times New Roman 14-point type) using Microsoft Word.

Dated: October 29, 2026

/s/ David C. Harman

CERTIFICATE OF SERVICE

I hereby certify that on October 29, 2026, I electronically filed the foregoing with the Clerk of the Court of the United States Court of Appeals for the Sixth Circuit by using the appellate CM/ECF system. I further certify service will be accomplished by the appellate CM/ECF system.

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