

No. 25-2029

United States Court of Appeals
for the Ninth Circuit

JANE DOE,

Plaintiff-Appellant,

– v. –

JOSEPH LOMBARDO, Governor of Nevada, in his official capacity; AARON FORD, Attorney General of Nevada, in his official capacity; NYE COUNTY; ELKO COUNTY; STOREY COUNTY; and LEONARD LANCE GILMAN, in his official capacity,

Defendants-Appellees,

– and –

MUSTANG RANCH PRODUCTIONS, LLC, doing business as Mustang Ranch Lounge LLC; DESERT ROSE CLUB, LLC; HACIENDA ROOMING HOUSE, INC., doing business as Bella’s Hacienda Ranch; WESTERN BEST, INC., doing business as Chicken Ranch; and WESTERN BEST, LLC,

Defendants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA IN CASE NO. 3:24-CV-00065-MMD-CSD,
HONORABLE MIRANDA M. DU, DISTRICT JUDGE

APPELLANT’S OPENING BRIEF

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CORPORATE DISCLOSURE STATEMENT

This statement is provided pursuant to Fed. R. App. P. 26.1. There are no nongovernmental corporation appellants in this case; all appellants are individuals.

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INTRODUCTION

Rape for profit was a cornerstone of chattel slavery. As a system, it was formally abolished with the Thirteenth Amendment, but continues to manifest in various guises, including sex trafficking. This case is about how it has flourished because – as before – it enjoys official protection.

Plaintiff Jane Doe was sex trafficked within Nevada’s legal brothel prostitution system. She sued the legal brothels that trafficked her, and the government entities that authorized, licensed, incentivized, and profited from the brothels, alleging the defendants cooperated to exploit her, in violation of federal law. ER-50–51.

Nevada’s legal prostitution regime is less a regulatory scheme than a protection racket, with government entities setting up the scheme and then getting their cut. A government that requires women in prostitution to have pimps, subjects them to physical examinations at their own expense every week, and allows the pimps to employ debt, physical restraint, and other methods of coercion with impunity, meanwhile profiting handily from the entire enterprise is not a bystander, but exactly the kind of enabler-beneficiary that federal anti-trafficking laws are intended to stop. ER-65–72.

Using debt to coerce labor is an ancient form of exploitation. It was the immediate resort of former slaveowners the moment abolition took effect, and enabled slavery to persist in a different form for some time after. It was a remarkably effective workaround, enough so that Congress explicitly outlawed it just two years later, ER-54–57, yet it persists in rural Nevada in brothels under cover of law.

The district court disregarded this, reducing the government’s role to “mere failure to intervene” with language about “deference to civil employment contracts” that echoed the postbellum peonage-preserving South. ER-37–38. A person who profits from someone else’s prostitution is not, of course, a bystander, but a pimp. And the Thirteenth Amendment and the Trafficking Victims Protection Act include not only direct perpetrators, but enablers and profiteers within their ambit; this should not be short-circuited when the enablers and profiteers are public officials, and certainly not when a public official is also a direct perpetrator.

If those tasked with protecting the right to be free from slavery in Nevada are complicit in the right’s violation and cannot be sued, no recourse exists for victims. Sex trafficking is effectively decriminalized where governments allow, encourage, and profit from it.

JURISDICTIONAL STATEMENT

The district court has jurisdiction based on 28 U.S.C. §1331, as well as 18 U.S.C. § 1595(a) and U.S. Const. amend. XIII. On August 16, 2024, the district court

entered an order dismissing Plaintiff's claims against the State and County Defendants for lack of standing. ER-26–48. On February 21, 2025, the District Court entered an order directing an entry of final judgment for Defendants. ER-3. On March 21, 2025, Plaintiffs filed their notice of appeal. ER-95–99. This Court has jurisdiction based on 28 U.S.C. §1291.

STATEMENT OF THE ISSUES PRESENTED

1) At the motion to dismiss stage, courts must accept the plaintiff's allegations as true and draw all reasonable inferences in the plaintiff's favor. The court below dismissed the case as to the Government Defendants for lack of subject matter jurisdiction, reasoning that Plaintiff Jane Doe had not sufficiently alleged traceability for Article III standing. But the court ignored, contradicted, and drew adverse inferences from material facts Jane Doe alleged against the County Defendants regarding causation. Did the Court err?

2) For Article III standing, an injury must be "fairly traceable" to a defendant, although the defendant need not exclusively, proximately, or even directly cause that injury. Plaintiff has alleged that she was sex trafficked by legal, licensed Nevada brothels, and that the counties that were supposed to regulate the brothels facilitated and profited from the abuses. The counties and the brothels are defendants in this action.

- a. Leonard Gilman trafficked Plaintiff Jane Doe in the licensed brothel in Storey County that he owns, while he was also a local government official who sat on the brothel licensing board. Are any of Plaintiff's injuries from being sex trafficked by Gilman and his brothel sufficiently traceable to Gilman in his official capacity and to Storey County?
- b. Elko County and Nye County legalized, incentivized, controlled, and profited from legal brothels in their jurisdictions that sex trafficked Plaintiff Jane Doe. Are any of Plaintiff's injuries from being trafficked by those legal brothels sufficiently traceable to Elko County and Nye County?

STATEMENT OF THE CASE

I. Factual Background

A. Historical context

Sex trafficking was a central feature of chattel slavery in the antebellum South: "White men subjected enslaved women and girls to rape and sexual abuse and harassment as a matter of course, and women and girls were also sold specifically for prostitution in the euphemistically-named 'fancy' trade." ER-54. "Enslaved women and girls were also forced to work in or manage brothels, and give their owners the fees they got from sex buyers." ER-55. Some of the biggest, wealthiest traders in the 1820s and 1830s were pimps. ER-55. The pervasive sexual

abuse and violence was a significant reason abolitionists opposed slavery, such as Frederick Douglass, who called slaveowners legalized brothel keepers. ER-55.

While the Thirteenth Amendment abolished slavery and involuntary servitude in 1865, states engaged in debt bondage practices and peonage to try to maintain old systems of slavery, ER-56, and women and girls continued to be exploited in prostitution. In the Jim Crow South, red light districts were put in Black neighborhoods, where white men were the sex buyers, women were trafficked in logging camp brothels in Wisconsin, and Chinese women were trafficked into the United States for prostitution, even being openly auctioned off at San Francisco's wharf. ER-57–58.

Women's rights activists engaged in campaigns against prostitution, and succeeded in obtaining several reforms, in the United States and internationally, including the repeal of a law mandating one-sided STI testing of prostituted women, and a 1949 United Nations Convention that forbids prostitution-related activities, including exploiting "the prostitution of another person, even with the consent of that person." ER-58–59.

The Complaint also alleged that prostitution correlates with "a high risk of sexual assault and other violence," and that recent, clear patterns have emerged of legalized prostitution leading to increased organized crime, sex trafficking, and other illegal activities in Rhode Island and the Netherlands, and serious failures in

investigating and prosecution sex trafficking in Switzerland and New Zealand. ER-61–64.

B. Government Defendants’ system

Plaintiff Jane Doe alleged that the State of Nevada, and Nye, Elko, and Storey Counties, along with multiple brothels located in those counties, were engaged in a scheme to enable, facilitate, and profit from a legalized system of prostitution, through which she was sex trafficked, in violation of the Thirteenth Amendment and federal sex trafficking laws. ER-51.

Plaintiff has alleged specific facts implicating Government Defendants in her sex trafficking. State Defendants permit prostitution in rural counties, but do not enforce their own regulations limiting prostitution advertising to counties where prostitution is legal, which drives up demand for sex-buying, leading to sex trafficking. ER-78. The State forces prostituted people to submit to weekly STI testing, but does not require sex buyers to undergo any testing. ER-65. The Government Defendants do not meaningfully investigate or prosecute sex trafficking in the brothels, even though failure to enforce the law is its own misdemeanor. ER-74–78.

Nevada allows counties to regulate themselves, even with a brothel owner, Defendant Lance Gilman, sitting on the county commission that regulates the brothels. ER-66–67. Nevada also permits escorting and “entertainment by referral

service” throughout the state, which are euphemisms for prostitution. ER-65–66. County Defendants directly profit from brothel prostitution through licensing fees and taxes. ER-78.

In the legal brothels, which are typically surrounded by high fences and commonly in geographically isolated areas, women are subjected to a number of practices that amount to debt bondage, including:

- Being locked inside the brothels and not allowed to leave for weeks at a time;
- Having to give the brothel 50% of their earnings;
- Being required to follow the brothel’s rules or face severe fines; and
- Being forced to live on the premises and pay the brothels for room and board to do so.

ER-67.

Plaintiff was sex trafficked in Nevada through its legalized prostitution regime from 2017 to 2023 by the Brothel Defendants. ER-79. She was never screened for sex trafficking by Nye, Elko, or Storey County. Local law enforcement did not inspect brothels, except to ensure that the women were being subjected to STI testing and had brothel cards. ER-79. Plaintiff was not allowed to keep her own brothel card. ER-79.

Nye County not only permits brothel prostitution but does not ban compelling someone to engage in prostitution, if it occurs in a brothel. ER-68. Nye County prevents prostituted people from operating independently, as they must be associated with a particular brothel to be licensed. ER-68. Nye County requires weekly STI examinations for prostituted persons, but not for sex buyers. ER-69. Nye County gives itself discretion to license felons who want to operate brothels. ER-69.

Elko County permits prostitution to occur only within a legal brothel, and the licensing board has discretion to license felons to operate brothels. ER-69–70. Elko County mandates weekly STI testing for prostituted persons, and if a person tests positive, they are required to be detained at the brothel until contacted by the State Board of Health. ER-70. This is extrajudicial detention at a brothel by operation of law. Sex buyers are not subject to any STI testing. Elko County does not screen for sex trafficking and does not require denying a brothel work card to a person who is under the age of twenty-one, even though it is illegal for anyone under twenty-one to work in a brothel. ER-70–71.

Storey County also makes prostitution illegal unless it occurs in a licensed brothel, and the brothel licensing board, consisting of county commissioners and the sheriff, has total authority to grant or deny brothel licenses. ER-71. Convicted felons are eligible to receive brothel licenses. ER-71. Brothel work cards are required for prostituted persons, and they may only have a work card for one brothel

at a time. ER-72. The sheriff may deny the card for several reasons, including the applicant being under the age of eighteen, but is not required to do so. ER-72.¹ Storey County requires weekly STI examinations for prostituted persons, but not sex buyers. ER-72.

Defendant Lance Gilman owns Mustang Ranch brothel in Storey County, and at the time of the lawsuit's filing, sat on the Storey County Board of Commissioners. ER-72. As a member of the Board, Gilman regulated brothels, including his own brothel. ER-73. Gilman bragged in the brothel about having all of Reno under his control, and has played an extensive role in Storey County's economic development, claiming that he purchased the brothel to boost Storey County's tax revenues. ER-73–74. Gilman also advised Jane Doe and other women on how to break prostitution advertising laws, and the brothel broke various other laws as well. ER-88.

C. Plaintiff Jane Doe's exploitation

Chicken Ranch took 50% of the fees Plaintiff earned and charged her \$45 daily for room and board. ER-80. Jane Doe was required to pay for food even when she was unable to eat it for health reasons. ER-80. She was forced to pay percentages of the transportation fees for buyers going to the brothel. ER-80. She was forbidden from having any cash on her or in her room at any time, or she would

¹ Participation in prostitution by a person under the age of eighteen is per se sex trafficking under federal law. 18 U.S.C. § 1591.

forfeit all the money in her account to Chicken Ranch. ER-80. The brothel had a barbed wire fence surrounding the property, and the exit and entry gate was controlled by Chicken Ranch managers. ER-81. She was required to get permission to go outside. ER-81. Women at the brothel were subjected to searches when they first arrived and whenever they left for one day or longer, and their phones and emails would be searched by Chicken Ranch at any time. ER-81. Chicken Ranch controlled and sometimes denied Jane Doe's access to her medications. ER-81–82. Chicken Ranch discouraged Jane Doe from using the panic buttons in the rooms, and did not call security or the police when they reported violent and threatening sex buyers. ER-82.

Desert Rose took 50% of the fees Jane Doe earned, and in addition charged a \$50 weekly cleaning fee for work Plaintiff and the other women had to do themselves. ER-83. Plaintiff was required to work 12 hours a day, amounting to 72 hours per week, although women who were there long term were permitted a weekly day off. ER-83. Plaintiff only had 3 minutes to respond to a lineup call, or else risked getting fined \$100. ER-83. Local law enforcement visited the brothel weekly, but did not talk to the women or assess whether they were being forced, coerced, or defrauded into being there, or otherwise address their working conditions. ER-84. Brothel owner Gabe Ornelas bragged openly about paying money under the table to Elko officials to protect his brothel. ER-84.

At Bella's, Plaintiff was not required to have any kind of license. ER-84. Bella's took 50% of the fees that she got from sex buyers, and required payments from her for room and board, and fees for cooking or using the brothel's silverware. ER-84. Jane Doe was not allowed to leave at will, and her requests to leave were sometimes denied. ER-84–85. Bella's tracked Plaintiff's movements, requiring her to tell the brothel where she was at all times. ER-85. Bella's withheld Jane Doe's final paycheck as a punishment for leaving. ER-85.

Mustang Ranch forced Plaintiff in her initial intake interview to sign a nondisclosure agreement and legal agreement stating that she was not being trafficked. ER-85. Mustang Ranch employees laughed about trafficking during this process. ER-85. Instead of asking for a woman's ID before issuing her a brothel card, Storey County Sheriff would accept a piece of paper with Mustang Ranch's name on it, saying the woman was employed by the brothel. ER-85. Jane Doe and the women with her were in and out of the Sheriff's office in about 5 minutes, without being asked any questions. ER-86. When Jane Doe remarked on this, Mustang Ranch's driver told her to stop talking. ER-86.

At Mustang Ranch, Plaintiff was not allowed to keep personal belongings in her room and she was closely monitored, with the brothel seizing part of her contract copy when they realized she was keeping track of their actions. ER-86. Mustang Ranch took 50% of Plaintiff's fees from the sex buyers, and charged her for laundry,

room and board, limousine services, and she would be fined \$1,500 if she missed responding to a lineup. ER-86. She was forced to work at least 12-hour shifts, and had to get permission to take a nap or go to the bathroom. ER-86. Mustang had locked gates, and Plaintiff was not allowed to leave by herself and had to obtain permission to go even outside into the gated yard. ER-87. Mustang Ranch would change the gate codes to make doubly sure that Jane Doe and the other women could not leave when they wished. ER-87. If Jane Doe left with anyone other than Mustang Ranch's driver, the brothel would force Plaintiff to pay for and submit to another STI exam. ER-87.

At Mustang Ranch, Lance Gilman would hold classes on how to break Nevada's prostitution advertising laws. ER-88. Jane Doe was threatened by the brothel's live-in attorney. ER-88. When Plaintiff was kicked out of Mustang Ranch, she was forcibly escorted out, forced to take only what she could fit in two small bags, and was never permitted to retrieve her clothing, work items, personal documents, laptop, and final paycheck. ER-88–89.

II. Procedural Background

This case was filed in February 2024, against the State, through Nevada Governor Joseph Lombardo in his official capacity and Nevada Attorney General Aaron Ford in his official capacity (“State Defendants”); Nye County; Elko County; Storey County; and Leonard “Lance” Gilman, in his official capacity (“County

Defendants”); Western Best, Inc. d/b/a/ Chicken Ranch; Western Best, LLC; Desert Rose Club, LLC; Hacienda Rooming House, Inc. d/b/a Bella’s Hacienda Ranch; Mustang Ranch Productions, LLC; and Leonard “Lance” Gilman, in his individual capacity (“Brothel Defendants”). ER-49–94. Together, the State Defendants and County Defendants are referred to as “Government Defendants.” Plaintiff Jane Doe alleged that the Defendants violated the Thirteenth Amendment and the Trafficking Victims Protection Act (TVPRA) by engaging in, enabling, and profiting from sex trafficking. ER-51.

The district court ruled on the outstanding motions to dismiss on August 16, 2024. The court dismissed the Government Defendants, finding that “Plaintiff fail[ed] to demonstrate Article III standing to bring her claims against State and County Defendants.” ER-27. The Court highlighted that causation for Government Defendants is substantially more difficult to establish when it turns on an independent third party’s reaction to government action or inaction. ER-34.

The Court found “Government Defendants’ actions and inactions ... bear at best an attenuated relationship to Doe’s alleged injuries.” ER-36. The Court found that “nothing in the Complaint supports that Government Defendants are responsible for directly perpetrating of trafficking, not that they have indirectly exerted ‘determinative or coercive’ force on the injurious actions of brothels, their managers, visitors, or clients—or on Plaintiff herself.” ER-36. The Court also found that

allegations against the Government Defendants which “rest on their mere failure to intervene in otherwise illegal behavior are not, by themselves, adequate to establish traceability.” ER-37.

The Court briefly considered Plaintiff’s allegation that Defendant Lance Gilman’s status as both Mustang Ranch’s owner and a Storey County Commissioner, as well as a member of the County’s brothel licensing board, indicates that Storey County is implicated in sex trafficking through this relationship. ER-39. But the Court was dismissive of those claims, as it reasoned: “simply alleging that Gilman’s dual role creates a conflict of interest does nothing to bolster traceability with regard to Storey County, let alone other counties.” ER-39. Plaintiff’s assertion that Gilman required the women to break various prostitution laws was found to “not implicate the *county* in any causal chain.” ER-39 (emphasis in original).

The Court did not rule on Government Defendants’ non-jurisdictional arguments, and deferred ruling on the question of whether Plaintiff could properly appear in this action pseudonymously. ER-31. The court also dismissed the claims for declaratory and injunctive relief against the Brothel Defendants, finding Plaintiff lacked standing to seek prospective relief and could not assert third party standing, and ordered Plaintiff to show cause as to her standing to seek damages against the Brothel Defendants. ER-32.

The Court entered final judgment for the Government Defendants with prejudice on February 21, 2025, ER-3. Plaintiff filed her notice of appeal for the dismissal of the County Defendants on March 21, 2025, ER-95–99.

STANDARD OF REVIEW

Article III standing determinations are reviewed *de novo*. *Maya v. Centex Corp.*, 658 F.3d 1060, 1067 (9th Cir. 2011) (internal citation omitted) (“We review *de novo* a district court’s determination that plaintiffs lack constitutional standing.”). To establish constitutional standing, a plaintiff must show three elements: 1) an injury in fact that is “concrete and particularized” and “actual or imminent, not conjectural or hypothetical”; which is 2) “fairly traceable” to the defendant’s “challenged action,” and “not the result of the independent action of some third party not before the court”; and is 3) redressable “by a favorable decision.” *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560 (1992) (cleaned up).²

Establishing standing is the plaintiff’s burden. At the pleading stage, this burden can be carried by; at the motion to dismiss stage, “general factual allegations of injury resulting from the defendant’s conduct,” as a court will “presume that

² This brief uses (cleaned up) to indicate that internal quotation marks, alterations, and citations have been omitted from quotations. *See, e.g., Brownback v. King*, 141 S. Ct. 740, 748 (2021); *Ashford v. Raby*, 951 F.3d 798 (6th Cir. 2020); *United States v. Reyes*, 866 F.3d 316, 321 (5th Cir. 2017); *Smith v. Kentucky*, 520 S.W.3d 340, 354 (Ky. 2017).

general allegations embrace those specific facts that are necessary to support the claim.” *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560–61 (1992) (cleaned up).

SUMMARY OF ARGUMENT

This case is about an ecosystem where slavery thrives: private and public actors have cultivated and enabled an environment hospitable to sexual abuse for profit, in which Plaintiff was sex trafficked by legal, licensed brothels. The court below ruled that none of the public actors can be held to account, not even the one who runs his own brothel. Plaintiff Jane Doe sued the legal brothels that sex trafficked her in prostitution through force and coercion, including physical restraint, debt, psychological manipulation, and controlling her access to her property and documents. Plaintiff also sued the government defendants that permitted, licensed, regulated, incentivized, and profited from the legal brothels. *See* ER-50–54.

In determining Article III standing at the motion to dismiss stage, the district court concluded that Plaintiff Jane Doe had not sufficiently alleged that her injuries from being sex trafficked by the Brothel Defendants were “fairly traceable” to the Government Defendants. ER-39. Turning the motion to dismiss standard on its head, *see In re Tracht Gut, LLC*, 836 F.3d 1146, 1150 (9th Cir. 2016), the district court substituted different facts from the ones Plaintiff alleged, took allegations in the complaint in the light most neutral or even the light most adverse, rather than the

light most favorable, and drew inferences against her to conclude that Plaintiff lacked causation. This alone is reversible error.

But the court also treated the Brothel Defendants as independent third parties in the case, and reasoned that the Government Defendants' conduct "bear[s] at best an attenuated relationship to Doe's alleged injuries" at the Brothel Defendants' hands, describing the government permitting the brothels to openly engage in debt bondage as "apparent deference to civil employment contracts." ER-35, 37–38.

For Article III standing, an injury must be "fairly traceable" to a defendant, although the defendant need not exclusively, proximately, or even directly cause that injury. *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560–61 (1992) (requiring that an injury be traceable to the defendant's conduct); *Barnum Timber Co. v. U.S. E.P.A.*, 633 F.3d 894, 901 (9th Cir. 2011) (finding that it is not necessary to eliminate other contributing causes to establish traceability).

Standing is more difficult to establish when causation depends on the decisions of "independent actors not before the courts," *Lujan*, 504 U.S. at 562, but Plaintiff was trafficked by the defendants who *are* before the court, not third parties. And even where government regulation of third parties is at issue, a plaintiff need only show that the government's role in the causal chain is not attenuated or speculative, but that the government's regulatory decisions predictably led to the

injury. *Food & Drug Admin. v. Alliance for Hippocratic Medicine*, 602 U.S. 367, 382–83 (2024).

Jane Doe has alleged a very short, predictable causal chain: that County Defendants created a legal environment that facilitated and encouraged prostitution via force and coercion, which is sex trafficking under federal law, that Brothel Defendants then prostituted Jane Doe using force and coercion, and that County and Brothel Defendants profited as a result. ER-64–92. And in Storey County, the connection is even closer: Defendant Leonard Gilman was both a Storey County commissioner and a direct sex trafficker, exploiting Jane Doe in his own brothel. ER-72–74.

These allegations are more than enough to establish standing, as traceability has been found in many cases with looser links in their causal chains. *See, e.g., Maya v. Centex Corp.*, 658 F.3d 1060, 1066 (9th Cir. 2011) (developers’ decision to market homes to financially unsound buyers, finance those buyers, and hide that information was fairly traceable to decreased property values, despite numerous independent non-party decisions from other homeowners also contributing to plaintiffs’ injuries); *Juliana v. United States*, 947 F.3d 1159, 1169 (9th Cir. 2020) (cleaned up) (government decision to offer federal subsidies and leases for fossil fuels was fairly traceable to harm from carbon emissions, even though fuel extractors were not part of the case).

The court below also relied on a non-precedential, distinguishable, and erroneous case, *Williams v. Sisolak*, in denying standing. ER-31, 34–36. *Williams* was an unpublished memorandum that relied on the existence of illegal third-party traffickers, who do not exist here. *Williams* contradicts Supreme Court precedent, and this Circuit’s precedent, by treating co-defendants who were parties to that case as “independent third parties not before the court” for causation purposes.

This appeal is ultimately about whether federal courts have jurisdiction to hear a case about government actors violating constitutional rights, specifically the right to be free from slavery. Because the court below failed to consider Plaintiff’s alleged facts in its standing analysis and misapplied the rule for whether independent third parties break the causal chain, its traceability analysis should be rejected, its dismissal of the County Defendants for lack of standing should be reversed, and the case should be remanded.

ARGUMENT

Plaintiff argues that I) the district court erred by ignoring, contradicting, and drawing adverse inferences from material facts Plaintiff alleged as to how her injuries from being sex trafficked by Brothel Defendants were fairly traceable to County Defendants, and II) the Brothel Defendants, as to whom Plaintiff Jane Doe has standing, do not break the causal chain between the County Defendants that regulate them and Plaintiff’s injuries from being sex trafficked by them.

I. The district court erred by ignoring, contradicting, and drawing adverse inferences from material facts Plaintiff alleged as to how her injuries from being sex trafficked by Brothel Defendants were fairly traceable to County Defendants.

On a motion to dismiss, allegations must be taken as true and construed favorably. A court “must accept as true all facts alleged in the complaint and draw all reasonable inferences in favor of the plaintiff.” *In re Tracht Gut, LLC*, 836 F.3d 1146, 1150 (9th Cir. 2016) (internal citations omitted).

This Court has reversed for the failure to do this. *See No. 84 Employer-Teamster Joint Council Pension Trust Fund v. America West Holding Corp.*, 320 F.3d 920, 935 (9th Cir. 2003) (internal citations omitted) (“[I]n reaching this finding, the District Court failed to accept Plaintiffs’ allegations as true and construe them in the light most favorable to Plaintiffs.”). And regardless of the stage of the proceedings, it is never permitted for a judge to simply substitute her own facts for those alleged in the complaint. *Cf. Khoja v. Orexigen Therapeutics, Inc.*, 899 F.3d 988, 999 (9th Cir. 2018) (“If defendants are permitted to present their own version of the facts at the pleading stage — and district courts accept those facts as uncontroverted and true — it becomes near impossible for even the most aggrieved plaintiff to demonstrate a sufficiently ‘plausible’ claim for relief.”).

Yet the court below defied this standard on three counts: A) the court ignored facts material to causation as to the Government Defendants, B) the court

contradicted some of the facts it did acknowledge, and C) the court failed to draw inferences in plaintiff's favor, and even drew inferences against plaintiff.

A. The district court ignored relevant facts.

The court simply ignored the following facts, alleged in Plaintiff's complaint, which are material to causation as to the County Defendants:

- Nye, Elko, and Storey Counties' failure to screen for, investigate, or prosecute sex trafficking and other crimes, particularly as to the brothels, ER-74–78.
- Elko requiring women who test positive after an STI exam to be forcibly detained at the brothel until the State Board of Health contacts them, ER-70.
- Defendant Desert Rose's brothel owner bragging that he bribed Elko officials to protect his brothel, ER-83–84.
- Elko routinely inspecting brothels, never inquiring about the conditions within them, and not even prosecuting Desert Rose's owner when he shot at a woman inside his brothel, ER-83–84.
- Defendant Leonard Gilman's bragging that he had all of Reno (adjacent to Storey County) under his thumb, while he was both a Storey County commissioner and a brothel owner, ER-72–74.

- Defendant Leonard Gilman’s extensive role in Storey County’s economic development, and claim that he purchased the brothel to boost the County’s tax revenues, ER-73–74.
- The lack of any standard licensing process in Storey County for women prostituted in Lance Gilman’s brothel, ER-71.
- Nye, Elko, and Storey County’s profiting from prostitution through tax revenues and licensing fees, ER-78.
- Patterns of corruption, including regarding prostitution and sex trafficking, within Nevada’s legal system, ER-78–79.
- Evidence from multiple jurisdictions, both within and outside the US, and across time and cultural differences, that legalized prostitution consistently correlates with increased sex trafficking and organized criminal activity, ER-61–64.

Although the last two sets of facts were briefly mentioned by the Court, they were dismissed as “distracting,” “evocative,” and “of peripheral relevance.” ER-46. But at the motion to dismiss stage, they should be taken as true, and additionally, they *were* relevant to Plaintiff’s theory of causation.

Specifically, Plaintiff alleged numerous facts situating prostitution within slavery and other forms of exploitation, showing that when prostitution enjoys official protection, it follows a predictable pattern of leading to increased sex

trafficking and organized crime, aided by official corruption. ER-51. Also, the Court characterized Plaintiff's allegations as "generic" against the Government Defendants, "which rest on their mere failure to intervene in otherwise illegal behavior" – even though Plaintiff, as described above, alleged facts indicating official corruption, and that the Government Defendants created incentives for illegal behavior and then profited from it, beyond their "failure to intervene" in it. ER-37.

There is nothing "mere" about public officials, charged with enforcing the law, benefitting from blatant sex trafficking by entities they oversee and license. Under Nevada law, this is its own crime, as Plaintiff alleged. ER-74–78.

B. The district court contradicted material facts.

The Court also defied the motion to dismiss standard by substituting its own apparent beliefs for Plaintiff's claims. The Court stated that while it was "true that unlike in *Williams*, Doe generally avoids directly listing or naming third parties responsible for illegal or abusive conduct," Jane Doe "does not erase third parties from the picture merely by attempting to redact references to them." ER-36–37.

But Plaintiff did not name any third-party pimps or other illegal actors in her complaint because there were not any. ER-68–71. She was trafficked by the brothels directly, and she was not trafficked by anyone else while she was in them. As will

be discussed further below, the existence of illegal, third-party traffickers was at issue in the *Williams* case, and is an important distinguishing factor in this case.

Thus, for the Court to simply contradict and decide to insert her own facts (that these parties must exist and just were not named in the Complaint) is highly defiant of the standard and warrants reversal, especially on facts so central to Plaintiff's causation theory.³

C. The district court failed to draw reasonable inferences in Plaintiff's favor.

Regarding inferences from the factual allegations, the court is not to be neutral at this stage in the proceedings, but draw any reasonable inference in plaintiff's favor. *In re Tracht Gut, LLC*, 836 F.3d 1146, 1150 (9th Cir. 2016). Yet the court explicitly failed to do this, for nearly all Jane Doe's allegations against the County Defendants.

First, Plaintiff alleged historical, legal, and social science evidence as context to show that the connection between prostitution and violence, sex trafficking, and organized crime, is established and consistent, especially where prostitution enjoys official protection. ER-54–59, 61–64. It is reasonable to infer at this stage in the

³ The only set of third parties that do exist are the sex buyers, who will be discussed further in Section II(C)(4) below, but Plaintiff here notes that their existence did not prevent the judge from finding standing as to the Brothel Defendants in a subsequent order. ER-25. The order even says there is no attenuation regarding what happens in the brothels' "own establishments" – without finding that third party sex buyers interrupt the causal chain. ER-18.

proceedings, then, that prostitution is not simply an ordinary job, but something that consistently, repeatedly almost always involves some form of sex trafficking or at least severe exploitation. As Plaintiff alleged, whether in chattel slavery in the American South, the backwoods of Wisconsin, California brothels, brothels in colonial India, Rhode Island's 30-year experiment with indoor prostitution, or the red-light districts of Amsterdam, Switzerland, or New Zealand, these are repeated correlations that cannot just be regulated away, and that the Nevada government has every reason to know this.⁴ ER-61–64. Complaining that this information is extraneous and disregarding it is not taking Plaintiff's allegations as true or drawing inferences in her favor.

The Counties chose to permit prostitution anyway, enforcing in particular two requirements: (1) that prostituted people be under a legal brothel, and (2) that they be subjected to frequent STI examinations. ER-79. The first rule requires prostituted women to be under a pimp, and the second assures sex buyers that the women in the brothels are disease-free. ER-65–66.

Based on Plaintiff's allegations regarding the one-sided STI testing, it is reasonable to infer that County Defendants are signaling the priority that sex buyers

⁴ Even if Nevada's officials were somehow unaware of these realities, since 2021, when *Williams v. Sisolak* was filed, they have at least had similar background information from that complaint since then.

have, especially since the testing is at the prostituted women's expense – every single week. Plaintiff cited historical research on one-sided testing, situating Nevada's system in past examples of similar abuse. ER-59. The reasonable inference is that this is part of the overall system of control, the disregard for the women's safety, and increases the financial vulnerability to the brothels' debt exploitation, as testing is an additional expense (up to \$800 per month) that prostituted women are subjected to. *See* ER-65, 69–70, 72, 87.

Instead, the court chose to analyze STI testing in isolation, rather than as part of the system Plaintiff alleges is in place. ER-37. It is inferring against Jane Doe to take allegations in isolation that she has alleged as a whole, as different facets of a system that has one predictable outcome: sex trafficking for purposes of prostitution. It is also drawing inferences against the Plaintiff to assume that the STI examination rules were about her welfare. The Court said Jane Doe's arguments about the abusiveness of the testing regime were “contradictory to the extent that some of Plaintiff's injuries ostensibly arise from lack of safety at brothels,” which misconstrues Jane Doe's position, which is that if the men buying sexual access to her are not also tested for STIs, the STI regulations do not protect her safety. ER-37.

Plaintiff alleged that County Defendants required fences with locked gates around brothels – without giving the prostituted women the ability to exit, mandated

extrajudicial detention in a brothel for prostituted women who test positive for an STI, failed to do any kind of ID, screening, or any other kind of check before issuing women prostitution licenses for Mustang Ranch brothel, refused to enforce any criminal laws against brothels' debt bondage or other sex trafficking violations, and profited from the whole. From these allegations, the court inferred that these practices amount to "deference to civil employment contracts" and "government inaction," and nothing more.⁵ ER-38.

Based on the Plaintiff's allegations about Mustang Ranch's blatant use of force and coercion to induce Plaintiff to engage in prostitution, Lance Gilman's direct role as the pimp/brothel owner in those abuses, Lance Gilman's boasting about his political control and pressuring the women to break the law, the utter lack of process for licensing that women for his brothel underwent, together with his role as one of three County commissioners sitting on the brothel licensing board – that is, a Storey County official engaged in sex trafficking with indications of corruption present – it is reasonable to infer that Storey County had a causal role in Plaintiff's sex trafficking. *See* ER-85–89. But the Court drew inferences against Plaintiff when it completely dismissed Gilman, even with Plaintiff's other allegations about

⁵ The court even said, in essence, that if a county permits a child under 18 to be licensed to prostitute in a brothel (which is a sex trafficking violation under federal law by definition), this does not indicate that the counties play any causal role in the brothels engaging in sex trafficking. ER-38.

misconduct and corruption. Strangely, the Court even asserted that Plaintiff was not claiming she was injured by the lack of any kind of screening by the County when she received her license for Mustang Ranch, but just that in theory such an irregular process might hurt someone. ER-38–39. The Court offered no basis for this belief, which blatantly draws inferences against Plaintiff.

To persons willing to engage in sex trafficking – it is reasonable to infer that the County Defendants, through their combination of regulation, lax enforcement, and profiting, are sending a clear signal that their legal regime will not only tolerate it but cover it. It is reasonable to infer that the Counties’ regulations and enforcement actions thus make women in prostitution vulnerable to coercion and control.

Ultimately, the court not only failed to draw reasonable inferences in Jane Doe’s favor, it also actively drew inferences against Jane Doe, turning the standard on its head. This contravention of the motion to dismiss standard is underscored by the bafflingly euphemistic language in the decision – the court’s referring to brothels as “ranches and clubs,” to debt bondage as “contract enforcement practices,” to the women being locked inside the brothels as “short term contractual stays,” and the Counties’ apparent tolerance for prostitution coerced by debt as “apparent deference to civil employment contracts.” ER-38.

The court thus was not taking the allegations together in Plaintiff’s favor but in isolation, and against her. By disregarding and even substituting its own facts for

Plaintiff's allegations, and by drawing inferences against Plaintiff, the court has contravened the motion to dismiss standard and its causation determination should be reversed.

II. The Brothel Defendants, as to whom Plaintiff Jane Doe has standing, do not break the causal chain between the County Defendants that regulate them and Plaintiff's injuries from being sex trafficked by them.

The Supreme Court has held that to establish constitutional standing, Plaintiffs must show three elements: an injury in fact that is 1) "concrete and particularized" and "actual or imminent, not conjectural or hypothetical"; 2) "fairly traceable" to the defendant's "challenged action," and "not the result of the independent action of some third party not before the court"; and 3) redressable "by a favorable decision." *Lujan*, 504 U.S. at 560–61 (cleaned up). At the motion to dismiss stage, Plaintiff's burden as to causation and redressability is "relatively modest[.]" *Bennett v. Spear*, 520 U.S. 154, 171 (1997).

Where government regulation (or lack thereof) is at issue, the Court has noted: "Government regulations that require or forbid some action by the plaintiff almost invariably satisfy both the injury in fact and causation requirements. So in those cases, standing is usually easy to establish." *Food & Drug Admin. v. Alliance for Hippocratic Medicine*, 602 U.S. at 382 (cleaned up); *see also Lujan*, 504 U.S. at 561–62.

Under the Trafficking Victims Protection Act (TVPRA), sex trafficking occurs if there is a commercial sex act involving a person under age 18 or a person induced by force, fraud, or coercion. 18 U.S.C. § 1591. The TVPRA allows lawsuits against perpetrators or anyone who “knowingly benefits” from participating in what they knew or should have known was a sex trafficking venture. 18 U.S.C. § 1595(a). Plaintiff has alleged that both the County Defendants and the Brothel Defendants perpetrated and benefited from her sex trafficking.

A perpetrator is anyone who knowingly “benefits, financially or by receiving anything of value,” or “recruits, entices, harbors, transports, provides, obtains, advertises, maintains, patronizes, or solicits by any means a person,” while “knowing, or . . . in reckless disregard of the fact” that a person was induced into a commercial sex act through force, fraud, or coercion. 18 U.S.C. § 1591(a).

A commercial sex act is “any sex act, on account of which anything of value is given to or received by any person.” Coercion is “the abuse or threatened abuse of law or the legal process,” or threatening or otherwise causing someone to believe any person will face physical restraint or serious harm, which includes “psychological, financial, or reputational harm.” 18 U.S.C. § 1591(e).

As an initial matter, Plaintiff Jane Doe has alleged that she *is* a regulated party, as the Government Defendants required her to obtain and pay for a license for

prostitution, to be under the control of a brothel, and to submit to regular physical examinations. ER-79. These regulations injure her in at least two ways.

First, they enable the County Defendants to profit from the Brothel Defendants sex trafficking her, and profiting from sex trafficking has been held to be a unique injury. *See Fleites v. MindGeek S.A.R.L.*, 617 F. Supp. 3d 1146 (2022) (finding causation as to Visa in lawsuit against Pornhub, due to Visa's role in facilitating the violations and the unique injuries Visa caused by monetizing the abuse). This is consistent with the fact that benefiting from sex trafficking is an independent criminal offense under Section 1591, and an independent basis for a civil lawsuit under Section 1595. The court below did not analyze whether Jane Doe had sufficiently alleged that her injuries from the County Defendants' benefiting from her trafficking were "fairly traceable" to the County Defendants.

Second, they encourage and facilitate the Brothel Defendants' sex trafficking in the first place, by legally requiring prostituted women, including Jane Doe, to have pimps, which is an invitation to coercion, and by creating financial vulnerabilities through the costs of maintaining a license, including paying for the exams, costs that figure into women's debt. Moreover, the STI exam regime is one-sided, so it does not protect the prostituted women, and it provides a pretext for control: it is expensive, frequent, and uncomfortable, but the women's legal status is jeopardized if they do not comply.

The court’s analysis should have ended here to find standing existed, but since it did not, Plaintiff will also explain how she has sufficiently alleged causation under the standard for government regulation of “someone else”: A) she has sufficiently alleged that Defendants Storey County and Lance Gilman in his official capacity as a Storey County commissioner, as they regulate Gilman and his brothel, who sex trafficked her directly, B) she has sufficiently alleged causation as to Defendants Elko County and Nye County, who regulate and profit from the brothels that trafficked her directly, and C) the *Williams* case does not apply.

Notably, the court has found that Plaintiff sufficiently alleged standing for all the Brothel Defendants, including Lance Gilman in his individual capacity, for her sex trafficking claims.

A. Plaintiff Jane Doe has sufficiently alleged causation as to Defendants Storey County and Leonard Gilman in his official capacity as a Storey County commissioner, as they regulate Gilman and his brothel, who sex trafficked her directly.

The Supreme Court has also outlined what a plaintiff must demonstrate to establish causation when the government’s regulation of third parties is at issue:

By contrast, when (as here) a plaintiff challenges the government’s unlawful regulation (or lack of regulation) of *someone else*, standing is not precluded, but it is ordinarily substantially more difficult to establish. That is often because unregulated parties may have more difficulty establishing causation—that is, linking their asserted injuries to the government’s regulation (or lack of regulation) of someone else.

When the plaintiff is an unregulated party, causation ordinarily hinges on the response of the regulated (or regulable) third party to the government action or inaction—and perhaps on the response of others as well. Yet the Court has said that plaintiffs attempting to show causation generally cannot rely on speculation about the unfettered choices made by independent actors not before the courts. Therefore, to thread the causation needle in those circumstances, the plaintiff must show that the third parties will likely react in predictable ways that in turn will likely injure the plaintiffs.

Food & Drug Admin. v. Alliance for Hippocratic Medicine, 602 U.S. 367, 382–83, (2024) (cleaned up) (emphasis in original).

In this, the Court is concerned about two things: attenuation, where the “government action” is too “far removed” from the alleged “ripple effects,” and speculation, “where it is not sufficiently predictable how third parties would react to government action[.]” *Food & Drug Admin.*, 602 U.S. at 382–83 (cleaned up).

Mustang Ranch Brothel and Lance Gilman in his individual capacity are not “independent actors not before the courts,” as they are Defendants in this case, and their connection to Storey County and Lance Gilman in his official capacity is direct and does not require “speculation” about their “unfettered choices.” Plaintiff has alleged these Defendants played a collective, overlapping, and reinforcing role in perpetrating and profiting from her sex trafficking, with Lance Gilman the pimp’s conduct being the entirely predictable result of Lance Gilman the regulator’s actions.

Plaintiff Jane Doe has alleged a very short causal chain: that County Defendants created a legal environment that facilitates and encourages prostitution

via force and coercion, which is sex trafficking under federal law, that Brothel Defendants then prostituted Jane Doe using force and coercion, and that the County and Brothel Defendants profited as a result.

Defendant Gilman occupies each place in the causal chain. In his individual capacity, he is an alleged direct trafficker, alongside his brothel, Defendant Mustang Ranch. In his official capacity, he is an alleged facilitator and profiteer alongside Storey County. At the time of the filing, he was one of three Storey County commissioners, which meant he governed his brothel. ER-72. Defendant Gilman was not dismissed for lack of standing in his personal capacity, but was dismissed alongside Storey County in his official capacity.⁶

As a county commissioner and member of the brothel board, Defendant Gilman had specific oversight responsibilities to prevent trafficking in persons and enforce the law, including for his own brothel. As a pimp, he had unique knowledge that he and his brothel were violating the law by using force and coercion to induce and profit from prostitution. This is doubly incriminating – he had special knowledge and power regarding the law, and he had special knowledge regarding his own violations of the law. These facts are more than sufficient to plausibly connect

⁶ The court below did not dismiss Gilman in the August 2024 order, but did so in the April 2025 judgment. ER-47.

Gilman's actions in his official capacity to Plaintiff's injuries from being trafficked at Mustang Ranch brothel.

Plaintiff Jane Doe was forced by Storey County's laws to be subject to this pimp's regulation. Her legal status was dependent on approval by the licensing board, and Gilman, together with the other board members, had the power to deny or revoke her license, a license that in his capacity as brothel owner, he had possession of. ER-73. When she was transported by Mustang Ranch to the County to obtain her license, there were no ID checks, screening for sex trafficking or anything else, or even an application – the County received a piece of paper stating that the women were with Mustang Ranch brothel, and five minutes later, they all had licenses, including Jane Doe. ER-86.

Jane Doe was not allowed to keep her own license, which remained in the brothel's possession. ER-86. And in a brothel run by a county official, during her first interview, before she even started "working," Jane Doe was forced to sign a non-disclosure agreement and a document stating that she was not being trafficked. ER-85. A county official also had access to her email, phone, and mail – as these things were searched at Mustang Ranch. ER-86. The brothel controlled Jane Doe's movements: she was locked inside, and even had to ask permission to use the restroom or go outside into the gated yard. ER-86. The brothel also subjected Jane

Doe to punishing fines and fees, on top of the money they were already taking from her. ER-86.

Moreover, Gilman bragged that he had all of Reno (adjacent to Storey County) under his thumb, while he was both a Storey County commissioner and Mustang Ranch brothel's owner. ER-72–73. Gilman played an extensive role in Storey County's economic development, and claimed that he purchased the brothel to aid the County in securing tax revenues. ER-73–74.

Despite the court's characterization, these allegations go well beyond simply stating that Defendant Gilman had a conflict of interest.

Suppose a person was part of a general business licensing board, and by virtue of that had oversight over barbershops, including a barbershop that he owned. There is a known pattern of barbershops in that area being used to launder money, and the official also launders money through his own barbershop. Neither the official nor the other members of the agency do anything about this, but they tax the shops. Such a situation would plainly not be merely a conflict of interest; but indicative of corruption, given the juxtaposition of the person's office with the crimes.

In neither situation is the causal connection between the public officials and the direct criminal perpetrators attenuated or speculative, as both causal links involve some of the same people. *Cf. Maya v. Centex Corp.*, 658 F.3d 1060, 1070 (9th Cir. 2011) (finding sufficient causal linkage between government policies and inflation

of housing prices in in plaintiffs’ economic injury). Accordingly, because the Mustang Ranch Defendants are not independent third parties, and because Defendant Lance Gilman is both a County official and a direct perpetrator as a brothel owner, Plaintiff has sufficiently alleged causation as to Storey County and Lance Gilman in his official capacity.

B. Plaintiff Jane Doe has sufficiently alleged causation as to Defendants Elko County and Nye County, who regulate and profit from the brothels that trafficked her directly.

As the Supreme Court has noted, while the causation requirement is meant to keep the courts from becoming “continuing monitors of the wisdom and soundness of government action,” determining causation is a very fact-specific inquiry, particularly as to “whether an unregulated party has standing.” *Food & Drug Admin.*, 602 U.S. at 383–84.

The Court has found causation a broad range of cases where the government’s regulation of a third party was at issue, such as “when the government regulates (or under-regulates) a business, the regulation (or lack thereof) may cause downstream or upstream economic injuries to others in the chain, such as certain manufacturers, retailers, suppliers, competitors, or customers,” “[w]hen the government regulates parks, national forests, or bodies of water, for example, the regulation may cause harm to individual users,” and “[w]hen the government regulates one property, it

may reduce the value of adjacent property.” *Food & Drug Admin.*, 602 U.S. at 384–85 (internal citations omitted).

The key, under this case law, is that “to establish causation, the plaintiff must show a predictable chain of events leading from the government action to the asserted injury—in other words, that the government action has caused or likely will cause injury in fact to the plaintiff.” *Food & Drug Admin.*, 602 U.S. at 382–85. And an injury can have multiple causes: a plaintiff “need not eliminate any other contributing causes to establish its standing.” *Barnum*, 633 F.3d at 901 (cleaned up).

Defendants Desert Rose, Bella’s, and Chicken Ranch brothels are not independent third parties, but parties in the case, as to whom Plaintiff Jane Doe has already been found to have standing. Plaintiff has alleged that the Brothel Defendants are directly sex trafficking her, ER-79–89, allegations the court below found sufficient to establish standing for the Brothel Defendants, ER-11–18.

And even if Desert Rose, Bella’s and Chicken Ranch were independent third parties, their actions are an entirely predictable outcome of Elko and Nye Counties’ regulations and practices, which is sufficient to allege standing. Particularly, forcing prostituted people to associate with pimps virtually guarantees that they will be subjected to force, fraud, or coercion at the hands of the pimps – that is, sex trafficked.

Causation is not attenuated here: this causal chain does not have multiple links, and therefore, Plaintiff Jane Doe was not subjected to harm from third parties many steps removed from the Counties, but from parties to this case regulated by the Counties. The court below thus did not need to speculate about the Government Defendants' role in the Brothel Defendants' actions, because it could ask them all directly.

The court reasoned that Jane Doe must show how each challenged regulation in isolation injured her in a specific way. ER-36–39. But it is not necessary for the Plaintiff to prove that a single regulation directly caused anyone to traffic her. The question is whether the whole of County Defendants' laws, regulations, lack of regulation, policies, and practices – taken together with their profiting from the brothels, fostered an environment in which the brothels' direct trafficking of Jane Doe was a predictable result. *See Food & Drug Admin.*, 602 U.S. at 383–84 (stating that causation can be found due to the government's under-regulation of someone else).

In light of the available data, the decision to permit and regulate prostitution is not neutral, and Plaintiff alleged that County Defendants are deliberately facilitating sex trafficking, including through the following actions:

- Elko law enforcement's participation in the brothel's own surveillance culture, without doing anything to hold a brothel owner accountable who shot

at people and bragged about bribing public officials to protect his brothel, ER-83–84.

- Elko requiring women who test positive after an STI exam to be forcibly detained at the brothel until the State Board of Health contacts them, ER-70.
- Elko routinely inspecting brothels, never inquiring about the conditions within them, ER-83–84.
- Nye County only forbidding compelled prostitution (sex trafficking under federal law) if it occurs outside a brothel, ER-68.
- Elko County not categorically preventing felons from running brothels, ER-69–70.
- Both Counties refusing to enforce any criminal laws against brothels’ open system of debt bondage or other sex trafficking violations. ER-74–79.

Nye County and Elko County are thus at the beginning and end of the causal chain. *See Fleites v. MindGeek S.A.R.L.*, 617 F.Supp.3d 1146 (2022).

Significantly, the Ninth Circuit previously found traceability in at least two cases where the causal chain involved far more speculation and attenuation than the present one. *Maya* found that the plaintiffs sufficiently alleged standing at the motion to dismiss stage, even though the causal chain had numerous independent factors, including homebuyers defaulting on mortgages and mortgage assignees foreclosing on them. *Maya v. Centex Corp.*, 658 F.3d 1060, 1066 (9th Cir. 2011). The

developers' decision to market homes to financially unsound buyers, finance those buyers, and hide that information was fairly traceable to decreased property values. 658 F.3d at 1064–65. And in *Juliana*, the Ninth Circuit also found that carbon emissions harm was sufficiently traceable to federal subsidies and leases, which authorized and incentivized “fossil fuel production, extraction, and transportation,” because government policies were at least arguably “a substantial factor,” even though independent third parties decided whether to extract the fossil fuels. *Juliana v. United States*, 947 F.3d 1159, 1169 (9th Cir. 2020) (cleaned up).

The following hypothetical further illustrates this point on causation: debt bondage was officially illegal after Reconstruction in Mississippi. Mississippi decides to make sharecropping legal in rural counties, and plantations, licensed locally, are allowed to establish company stores, require workers to live onsite, and use debt to coerce their labor.

The state becomes a destination for labor trafficking disproportionate to its population size, but neither the state nor the counties prosecute labor trafficking, and the goods produced boost Mississippi's economy. The only regulation consistently enforced is for background and physical fitness checks on the workers. Once workers pass those checks, they can only work legally if one of the company town-type farms employs them. Local officials collect property taxes and licensing fees from the sharecropper businesses.

Labor trafficked workers sue farms that exploited them along with the government officials in the jurisdictions which licensed the farms. Some were migrant workers in other states, induced to come to Mississippi. They experienced violence and coercion at the hands of the licensed businesses. Do they have causation as to the government officials? By the district court's logic, the answer would be no. But that conclusion runs contrary to settled, binding precedent, and is also inconsistent with other courts' treatment of standing in the TVPRA context.

In *Apple*, the defendants argued that forced labor violations by other, non-party actors in the supply chain destroyed causation. *Doe 1 v. Apple Inc.*, 96 F.4th 403, 405–12 (D.C. Cir. 2024). The lawsuit was against technology companies for benefiting from labor trafficking in Congolese mines. The companies bought cobalt from foreign firms, who obtained the cobalt from their DRC subsidiaries, and the subsidiaries acquired some cobalt mined via labor trafficking through various informal sources. *Id.* at 405–12.

The D.C. Circuit ruled that even though numerous intermediaries – including mining subsidiaries and persons in the informal mining sector – were in the alleged causal chain, Plaintiffs sufficiently alleged traceability for labor trafficking for the technology companies. *Id.* at 405–12. Although the technology companies, who purchased cobalt that had been mined through labor exploitation, were at the end of a complex causal chain, the court found that the TVPRA creates a statutory causal

chain, and plaintiffs had sufficiently alleged that the technology companies' conduct fell within the statute. *Id.* at 410–12. The court stated:

The Tech Companies in essence respond that, even if forced labor in the DRC is in some loose sense traceable to the Companies' involvement in the supply chain, the TVPRA's indirect liability for participation in a venture falls below the 'fair traceability' floor of Article III standing. . . in the TVPRA Congress recognized a causal link between the injury of forced labor and actors who indirectly facilitate it. . . there is still a 'fairly traceable' link between miners and the Tech Companies sufficient for Article III standing.

Id. at 412.

By contrast, this case has a much more direct, far less speculative causal chain, yet the district court found that there was no traceability. ER-34–39. Given that the relevant injuries include benefiting from sex trafficking, the relevant causal chain necessarily concerns those injuries. And unlike the *Apple* case, where only the technology companies were defendants, and unnamed local actors were the ones actually engaging in the forced labor, *Doe I v. Apple*, 96 F.4th at 405–12, in this case Plaintiff alleged that Government Defendants facilitated and profited from the Brothel Defendants' direct sex trafficking, without any intermediaries.

The second case, which dealt with sex trafficking, was perfunctory in determining standing, suggesting that it is highly unlikely that a plaintiff can sufficiently allege beneficiary liability and still not have standing: "Here, Plaintiff has sufficiently alleged that she was injured when she was trafficked in violation of § 1591 as a minor. Defendant's alleged participation in and benefit from a venture it

should have known was in violation of the TVPRA, discussed further below, is surely enough to establish causation for purposes of a standing analysis.” *A.M. v. Wyndham Hotels & Resorts, Inc.*, 728 F. Supp. 3d 787, 795 (S.D. Ohio 2024), *amended on reconsideration sub nom. In re Hotel TVPRA Litig.*, No. 2:21-CV-4933, 2024 WL 4945135 (S.D. Ohio Dec. 3, 2024) (noting that Sixth Circuit precedent just requires a plaintiff to show that the defendant’s conduct predictably affected third parties’ decisions who then caused the harm directly).

Plaintiff has undoubtedly sufficiently alleged beneficiary liability as to the County Defendants here. She has alleged that they benefited through licensing fees and taxes from the Brothel Defendants, and participated in the Brothel Defendants’ venture by licensing, protecting, and incentivizing them.

The District of Nevada has, in a case interpreting beneficiary liability under Section 1595, noted that “participation in venture” means any “undertaking or enterprise involving risk and potential profit,” which “need not be a sex trafficking venture,” but can be any type of business. *S.C. v. Hilton Franchise Holding LLC*, No. 2:23-CV-02037-APG-DJA, 2024 WL 4773981, at *3 (D. Nev. Nov. 12, 2024) (cleaned up). *See also G.G. v. Salesforce.com, Inc.*, 76 F.4th 544 (7th Cir. 2023) (cleaned up) (in a Section 1595(a) claim, the venture “need not be a sex trafficking venture”).

Section 1595 “imposes” a “should have known” or “negligence” standard: the beneficiary should have known that the perpetrator was engaging in sex trafficking. *S.C. v. Hilton* 2024 WL 4773981, at *3. Notably, Hilton was one of the defendants in the case, and the court suggested that the hotel brand’s corporate training emphasizing the differences between sex trafficking and “consensual” prostitution helped contribute to a “culture” of non-interference, and indicated that Hilton knowingly benefited from what it should have known was sex trafficking, participating in a venture with the traffickers. *Id.* at *2.

So too here. Enabling-then-profiting conduct, based on a view that prostitution is a valid form of labor, is almost exactly what Plaintiff accuses the County Defendants of, except that they also explicitly gave prostitution legal status in the first place, and had the power to not just facilitate the trafficking, but to stop it altogether. Plaintiff has also sufficiently alleged that County Defendants meet the “should have known” standard, that they either know or should know that the Brothel Defendants are deploying various forms of force and coercion, including physical restraint and debt, to induce women to engage in prostitution.

Accordingly, because Defendants Desert Rose, Bella’s, and Chicken Ranch are not independent third parties, and because Elko County and Nye County have facilitated and benefited from those brothels’ sex trafficking, Plaintiff has sufficiently alleged causation as to Elko County and Nye County.

C. The *Williams* decision does not apply.

In *Williams*, the Ninth Circuit ruled that the sex trafficking plaintiffs failed to sufficiently allege Article III standing as to government defendants, treating co-defendants as independent third parties in its causation analysis, and interpreting traceability to exclude claims for enabling and benefiting from sex trafficking. *Williams v. Sisolak*, No. 22-16859, 2024 WL 194180, at *1 (9th Cir. Jan. 18, 2024), *cert. denied sub nom. Williams v. Lombardo*, 144 S. Ct. 2659 (2024). The court below, in analyzing traceability, relied extensively on *Williams*. ER-31, 34–36.

But the *Williams* decision does not apply to bar standing here, for at least four reasons: 1) it is non-precedential, 2) it is distinguishable, 3) it was erroneous, and 4) it leads to an untenable public policy.

1. *Williams* is non-precedential.

Only published decisions of the Ninth Circuit are binding authority and controlling precedent. Stare decisis only applies to precedent. *See Jones v. Mississippi*, 593 U.S. 98, 142 (2021). A memorandum decision designated as non-precedential is “non-binding” and only precedent “when relevant under the doctrine of law of the case or rules of claim preclusion or issue preclusion.” *Grimm v. City of Portland*, 971 F.3d 1060, 1067 (9th Cir. 2020).

This is because “[u]npublished dispositions provide shorthand explanations meant to apprise the parties of the basis for a decision,” often not describing the facts

at issue, with “reasoning” that “is rarely developed enough to acknowledge and account for competing considerations, reconcile precedents that could be seen as in tension with each other, or describe limitations to the legal holdings—because, in theory, there are no new legal holdings, just applications of established law to facts.”

Id.

So too here: *Williams* is an unpublished memorandum decision, and accordingly is not binding authority. *Williams v. Sisolak*, No. 22-16859, 2023 WL 8469159, at *1 (9th Cir. Dec. 7, 2023), *amended on denial of reh’g*, No. 22-16859, 2024 WL 194180 (9th Cir. Jan. 18, 2024), *cert. denied sub nom. Williams v. Lombardo*, 144 S. Ct. 2659 (2024). The order is extremely brief and offers little guidance or analysis on standing. *Id.* Moreover, the Ninth Circuit in *Williams* mischaracterized the complaint’s alleged facts and claims. *Id.* The court did not mention, let alone analyze, a single argument that the plaintiffs made in their briefs, summarily affirming the dismissal and denying the plaintiffs leave to amend. *Id.* Thus, *Williams* does not control the outcome in this case because it was deliberately made non-precedential by this Court, and the district court improperly relied on it.

2. *Williams* is distinguishable.

Moreover, this case is distinguishable from *Williams*, at precisely the material point: there are no third-party traffickers in the causal chain, *compare Williams v. Sisolak*, 2024 WL 194180, at *1 *with* ER-79–89, and one of the direct traffickers is

also a government official, ER-72–74. The causal chain between the two sets of the defendants is direct and does not involve intervening actors. The County Defendants regulate, permit, incentivize, control, and profit from the Brothel Defendants. The Brothel Defendants directly sex trafficked Jane Doe. One of the Brothel Defendants is also a County Defendant.

3. *Williams* is erroneous as it conflicts with settled precedent.

More to the point, the *Williams* decision is erroneous, as it defied Supreme Court and Ninth Circuit precedent. If causation depends on “the unfettered choices made by independent actors not before the courts and whose exercise of broad and legitimate discretion the courts cannot presume either to control or to predict,” then it is the plaintiff’s burden “to adduce facts showing that those choices have been or will be made in such manner as to produce causation. *Lujan*, 504 U.S. at 562 (cleaned up). Relatedly, the Supreme Court has also said that it is reluctant to speculate “about the decisions of independent actors,” unless the plaintiff shows “third parties will likely react in predictable ways.” *California v. Texas*, 141 S. Ct. 2104, 2117 (2021) (cleaned up).

The Ninth Circuit’s ruling in *Williams* conflicts with these precedents on three fronts. First, the Ninth Circuit extended the rule to co-defendants, who are by definition parties to the case and were before the court. The *Williams* plaintiffs sued

their direct traffickers, not any independent third-party actors. Courts are not forced to speculate about parties' actions.

Second, the Ninth Circuit never analyzed whether the *Williams* plaintiffs had sufficiently alleged that the sex industry defendants had reacted in predictable ways to the government defendants' legalized prostitution system, including forcing women in the sex trade to associate with pimps.

And finally, by acknowledging that the plaintiffs were injured by the escort agencies, brothel, and strip club defendants, the Ninth Circuit ruled that co-defendants who directly caused the relevant injuries somehow break the causal chain. The ruling was not based on the inadequacy of specific allegations against the government defendants but on the mere fact of plaintiffs' injuries at the co-defendants' hands. The Ninth Circuit created a heightened traceability standard in *Williams* that defies Supreme Court precedent and is thus incorrect as a matter of law.

The *Williams* ruling conflicted with the Ninth Circuit's own precedent. Following the Supreme Court, the Ninth Circuit requires an injury be "fairly traceable to the challenged action of the defendant, and not the result of the independent action of some third party not before the court[.]" *Barnum*, 633 F.3d at 905 (cleaned up) (while generally an injury must be "fairly traceable to the challenged action of the defendant, and not the result of the independent action of

some third party not before the court,” traceability can be based on government action causing predictable public perceptions and responses). Every federal circuit has adopted a similar rule regarding independent third parties not before the court.⁷

⁷ See, e.g., *Wiener v. MIB Grp., Inc.*, 86 F.4th 76, 84 (1st Cir. 2023) (cleaned up) (“The causation prong requires that the plaintiff’s injury be fairly traceable to the defendant’s conduct, rather than the result of “independent action” by some other party not before the court.”); *Ass’n of Am. Physicians & Surgeons Educ. Found. v. Am. Bd. of Internal Med.*, 103 F.4th 383, 391 (5th Cir. 2024) (cleaned up) (“Standing is ordinarily substantially more difficult to establish when a causal relation between injury and challenged action depends upon the decision of an independent third party.”); *Producers of Renewables United for Integrity Truth & Transparency v. U.S. E.P.A.*, No. 19-9532, 2022 WL 538185, at *7–8 (10th Cir. Feb. 23, 2022) (cleaned up) (causation concerns whether the “injury can be traced to the defendant’s challenged conduct, rather than to that of some other actor not before the court.”); *J.B. v. Woodard*, 997 F.3d 714, 720 (7th Cir. 2021), *reh’g denied* (May 27, 2021) (cleaned up) (defendant’s actions “need not be the very last step in the chain of causation,” if the injury is “fairly traceable” to the defendant and “the independent action of some third party not before the court.”); *In re SuperValu, Inc.*, 870 F.3d 763, 768 (8th Cir. 2017) (cleaned up) (causation concerns whether the injury results from the “independent action of some third party not before the court.”); *Galaria v. Nationwide Mut. Ins. Co.*, 663 F. App’x 384, 390 (6th Cir. 2016) (traceability excludes “cases in which a third party and not a party before the court causes the injury.”) (cleaned up); *Chevron Corp. v. Donziger*, 833 F.3d 74, 121 (2d Cir. 2016) (cleaned up) (causation is about whether the “injury could have been a consequence” of the defendant’s actions “rather than...independent acts of some other person not before the court.”); *Strickland v. Alexander*, 772 F.3d 876, 885 (11th Cir. 2014)(cleaned up) (causation must connect the injury to the defendant and is not satisfied if “the injury results instead from the independent action of some third party not before the court.”); *Frank Krasner Enterprises, Ltd. v. Montgomery Cnty., MD*,

4. *Williams* undermines the public policy goals of important federal civil rights laws.

Williams, if extended or made precedential, would effectively prevent victims from vindicating federal statutory and constitutional rights.

a. The rule in *Williams* forecloses TVPRA beneficiary claims.

Under the TVPRA, sex trafficking occurs if there is a commercial sex act involving a person under age 18 or a person induced by force, fraud, or coercion. 18 U.S.C. § 1591. The TVPRA allows lawsuits against perpetrators or anyone who “knowingly benefits” from participating in what they knew or should have known was a sex trafficking venture. 18 U.S.C. § 1595(a). The Supreme Court has also acknowledged that the TVPRA creates a cause of action for those indirectly involved with slavery. *Nestle USA, Inc. v. Doe*, 593 U.S. 628, 638 (2021) (internal citations omitted).

401 F.3d 230, 235 (4th Cir. 2005) (“We have...denied standing because the actions of an independent third party, who was not a party to the lawsuit, stood between the plaintiff and the challenged actions.”); *Intell. Prop. Dev., Inc. v. TCI Cablevision of California, Inc.*, 248 F.3d 1333, 1346 (Fed. Cir. 2001) (cleaned up) (causation cannot generally be based on “the independent action of some third party not before the court”); *Fla. Audubon Soc. v. Bentsen*, 94 F.3d 658, 670 (D.C. Cir. 1996) (cleaned up) (causal links “presume certain independent actions of some third party not before this court.”).

Yet the Ninth Circuit’s order in *Williams* operates to bar beneficiary or indirect liability altogether. Third parties are always present in trafficking in persons. Specifically, the rapes perpetrated by sex buyers are the primary source of sexual assault and other violence in the sex trade, *see* ER-61–64, so numerous third parties’ independent decisions (to buy sexual access) are in some sense always present in sex trafficking. Survivors would be unable to vindicate their rights if the presence of more than one actor contributing to the violation automatically destroyed causation, especially in situations where the third parties are too numerous to sue.

If even a co-defendant’s contribution to the relevant injury breaks the causal chain, a plaintiff could *never* have Article III standing against a beneficiary of sex trafficking, even if that plaintiff also sued the direct perpetrator, and stated a claim for beneficiary and perpetrator liability against both, respectively. Such a result profoundly undermines the TVPRA’s purpose, making profiting from sex trafficking almost non-actionable.

b. The rule in *Williams* forecloses Thirteenth Amendment claims based on government actors’ enabling slavery.

The Thirteenth Amendment categorically abolishes slavery in all its forms. U.S. Const. amend. XIII, § 1. *See also Jones v. Alfred H. Mayer Co.*, 392 U.S. 409, 439 (1968) (internal citations and quotation marks omitted) (“By its own unaided force and effect, the Thirteenth Amendment abolished slavery, and established

universal freedom.”). It also has been interpreted to invalidate state laws that permitted or encouraged slavery or involuntary servitude indirectly. *See Bailey v. Alabama*, 219 U.S. 219, 227–28 (1911) (holding that a facially neutral criminal fraud statute violated the Thirteenth Amendment because it indirectly enabled coerced labor). And given the prevalence of sex trafficking within antebellum slavery, *see* ER-54–55, the Thirteenth Amendment is intended to apply to enabling sex trafficking.

The Thirteenth Amendment, unlike other constitutional rights, is not just a restriction on government behavior; it requires affirmative action from government entities: when it was ratified, independent, private actors were a constant threat to newly freed people, and states could be held responsible for not controlling them. *See* Neal Kumar Katyal, *Men Who Own Women: A Thirteenth Amendment Critique of Forced Prostitution*, 103 Yale L.J. 791, 817, 820–22 n.171–175 (1993) (internal citations omitted).

Had there been a rule that any third-party involvement destroyed standing, regardless of what state actors did to facilitate or collude with it, the Amendment would have been dead on arrival, because states were often the enablers of private parties’ Thirteenth Amendment violations, such as employers who subjected people to debt bondage under the cover of contract law. *See e.g., Taylor v. State of Ga.*, 315

U.S. 25, 29 (1942); *Bailey*, 219 U.S. at 244–45) (internal citations omitted) (“What the state may not do directly it may not do indirectly[.]”).

Yet if *Williams* was extended and adopted as the Ninth Circuit’s rule, then regardless of whether a government creates conditions that enable slavery to flourish, as long as another party exploits those conditions, the government can never be sued.

Accordingly, because the *Williams* decision is non-precedential, distinguishable, erroneous, and undermines important federal policies, it should not be followed in this case.

Therefore, given that the district court did not take material allegations about the County Defendants’ role in Plaintiff’s sex trafficking as true, and that Plaintiff alleged the County Defendants facilitated and profited from the Brothel Defendants sex trafficking her, the district court’s standing determination should be reversed.

CONCLUSION

For the foregoing reasons, the District Court’s dismissal of the County Defendants for lack of standing should be reversed, and the case remanded for consideration of Plaintiff’s claims on the merits.

Dated: June 5, 2025

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**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

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Date June 5, 2025

ADDENDUM

ADDENDUM ADD-1

STATUTES

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OTHER AUTHORITIES

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I. 18 U.S.C.A. § 1589

§ 1589. Forced labor

(a) Whoever knowingly provides or obtains the labor or services of a person by any one of, or by any combination of, the following means—

(1) by means of force, threats of force, physical restraint, or threats of physical restraint to that person or another person;

(2) by means of serious harm or threats of serious harm to that person or another person;

(3) by means of the abuse or threatened of law or legal process; or

(4) by means of any scheme, plan, or pattern intended to cause the person to believe that, if that person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint, shall be punished as provided under subsection (d).

(b) Whoever knowingly benefits, financially or by receiving anything of value, from participation in a venture which has engaged in the providing or obtaining of labor or services by any of the means described in subsection (a), knowing or in reckless disregard of the fact that the venture has engaged in the providing or obtaining of labor or services by any of such means, shall be punished as provided in subsection (d).

(c) In this section:

(1) The term “abuse or threatened abuse of law or legal process” means the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action.

(2) The term “serious harm” means any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing labor or services in order to avoid incurring that harm.

(d) Whoever violates this section shall be fined under this title, imprisoned not more than 20 years, or both. If death results from a violation of this section, or if the violation includes kidnaping, an attempt to kidnap, aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title, imprisoned for any term of years or life, or both.

II. 18 U.S.C.A. § 1591

§ 1591. Sex trafficking of children or by force, fraud, or coercion

(a) Whoever knowingly—

(1) in or affecting interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States, recruits, entices, harbors, transports, provides, obtains, advertises, maintains, patronizes, or solicits by any means a person; or

(2) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraph (1), knowing, or, except where the act constituting the violation of paragraph (1) is advertising, in reckless disregard of the fact, that means of force, threats of force, fraud, coercion described in subsection (e)(2), or any combination of such means will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act, shall be punished as provided in subsection (b).

(b) The punishment for an offense under subsection (a) is—

(1) if the offense was effected by means of force, threats of force, fraud, or coercion described in subsection (e)(2), or by an combination of such means, or if the person recruited, enticed, harbored, transported, provided, obtained, advertised, patronized, or solicited had not attained the age of 14 years at the time of such offense, by a fine under this title and imprisonment for any term of years not less than 15 or for life; or

(2) if the offense was not so effected, and the person recruited, enticed, harbored, transported, provided, obtained, advertised, patronized, or solicited had attained the age of 14 years but had not attained the age of 18 years at the time of such offense, by a fine under this title and imprisonment for not less than 10 years or for life.

(c) In a prosecution under subsection (a)(1) in which the defendant had a reasonable opportunity to observe the person so recruited, enticed, harbored, transported, provided, obtained, maintained, patronized, or solicited, the Government need not prove that the defendant knew, or recklessly disregarded the fact, that the person had not attained the age of 18 years.

(d) Whoever obstructs, attempts to obstruct, or in any way interferes with or prevents the enforcement of this section, shall be fined under this title, imprisoned for a term not to exceed 25 years, or both.

(e) In this section:

(1) The term “abuse or threatened abuse of law or legal process” means the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action.

- (2) The term “coercion” means—
- (A) threats of serious harm to or physical restraint against any person;
 - (B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or
 - (C) the abuse or threatened abuse of law or the legal process.
- (3) The term “commercial sex act” means any sex act, on account of which anything of value is given to or received by any person.
- (4) The term “participation in a venture” means knowingly assisting, supporting, or facilitating a violation of subsection (a)(1).
- (5) The term “serious harm” means any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing commercial sexual activity in order to avoid incurring that harm.
- (6) The term “venture” means any group of two or more individuals associated in fact, whether or not a legal entity.

III. 18 U.S.C.A. § 1595

§1595. Civil Remedy

- (a) An individual who is a victim of a violation of this chapter may bring a civil action against the perpetrator (or whoever knowingly benefits, or attempts or conspires to benefit, financially or by receiving anything of value from participation in a venture which that person knew or should have known has engaged in an act in violation of this chapter) in an appropriate district court of the United States and may recover damages and reasonable attorneys fees.
- (b) (1) Any civil action filed under subsection (a) shall be stayed during the pendency of any criminal action arising out of the same occurrence in which the claimant is the victim.
- (2) In this subsection, a criminal action includes investigation and prosecution and is pending until final adjudication in the trial court.
- (c) No action may be maintained under subsection (a) unless it is commenced not later than the later of—
- (1) 10 years after the cause of action arose; or
- (2) 10 years after the victim reaches 18 years of age, if the victim was a minor at the time of the alleged offense.

(d) In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by any person who violates section 1591, the attorney general of a State, as *parens patriae*, may bring a civil action against such person on behalf of the residents of the State in an appropriate district court of the United States to obtain appropriate relief.

IV. 22 U.S.C.A. § 7101

§ 7101. Purposes and findings

(a) Purposes

The purposes of this chapter are to combat trafficking in persons, a contemporary manifestation of slavery whose victims are predominantly women and children, to ensure just and effective punishment of traffickers, and to protect their victims.

(b) Findings

Congress finds that:

(1) As the 21st century begins, the degrading institution of slavery continues throughout the world. Trafficking in persons is a modern form of slavery, and it is the largest manifestation of slavery today. At least 700,000 persons annually, primarily women and children, are trafficked

within or across international borders. Approximately 50,000 women and children are trafficked into the United States each year.

(2) Many of these persons are trafficked into the international sex trade, often by force, fraud, or coercion. The sex industry has rapidly expanded over the past several decades. It involves sexual exploitation of persons, predominantly women and girls, involving activities related to prostitution, pornography, sex tourism, and other commercial sexual services. The low status of women in many parts of the world has contributed to a burgeoning of the trafficking industry.

(3) Trafficking in persons is not limited to the sex industry. This growing transnational crime also includes forced labor and involves significant violations of labor, public health, and human rights standards worldwide.

(4) Traffickers primarily target women and girls, who are disproportionately affected by poverty, the lack of access to education, chronic unemployment, discrimination, and the lack of economic opportunities in countries of origin. Traffickers lure women and girls into their networks through false promises of decent working conditions at relatively good pay as nannies, maids, dancers, factory workers, restaurant workers, sales clerks, or models. Traffickers also buy children

from poor families and sell them into prostitution or into various types of forced or bonded labor.

(5) Traffickers often transport victims from their home communities to unfamiliar destinations, including foreign countries away from family and friends, religious institutions, and other sources of protection and support, leaving the victims defenseless and vulnerable.

(6) Victims are often forced through physical violence to engage in sex acts or perform slavery-like labor. Such force includes rape and other forms of sexual abuse, torture, starvation, imprisonment, threats, psychological abuse, and coercion.

(7) Traffickers often make representations to their victims that physical harm may occur to them or others should the victim escape or attempt to escape. Such representations can have the same coercive effects on victims as direct threats to inflict such harm.

(8) Trafficking in persons is increasingly perpetrated by organized, sophisticated criminal enterprises. Such trafficking is the fastest growing source of profits for organized criminal enterprises worldwide. Profits from the trafficking industry contribute to the expansion of organized crime in the United States and worldwide. Trafficking in persons is often

aided by official corruption in countries of origin, transit, and destination, thereby threatening the rule of law.

(9) Trafficking includes all the elements of the crime of forcible rape when it involves the involuntary participation of another person in sex acts by means of fraud, force, or coercion.

(10) Trafficking also involves violations of other laws, including labor and immigration codes and laws against kidnapping, slavery, false imprisonment, assault, battery, pandering, fraud, and extortion.

(11) Trafficking exposes victims to serious health risks. Women and children trafficked in the sex industry are exposed to deadly diseases, including HIV and AIDS. Trafficking victims are sometimes worked or physically brutalized to death.

(12) Trafficking in persons substantially affects interstate and foreign commerce. Trafficking for such purposes as involuntary servitude, peonage, and other forms of forced labor has an impact on the nationwide employment network and labor market. Within the context of slavery, servitude, and labor or services which are obtained or maintained through coercive conduct that amounts to a condition of servitude, victims are subjected to a range of violations.

(13) Involuntary servitude statutes are intended to reach cases in which persons are held in a condition of servitude through nonviolent coercion. In *United States v. Kozminski*, 487 U.S. 931 (1988), the Supreme Court found that section 1584 of title 18, should be narrowly interpreted, absent a definition of involuntary servitude by Congress. As a result, that section was interpreted to criminalize only servitude that is brought about through use or threatened use of physical or legal coercion, and to exclude other conduct that can have the same purpose and effect.

(14) Existing legislation and law enforcement in the United States and other countries are inadequate to deter trafficking and bring traffickers to justice, failing to reflect the gravity of the offenses involved. No comprehensive law exists in the United States that penalizes the range of offenses involved in the trafficking scheme. Instead, even the most brutal instances of trafficking in the sex industry are often punished under laws that also apply to lesser offenses, so that traffickers typically escape deserved punishment.

(15) In the United States, the seriousness of this crime and its components is not reflected in current sentencing guidelines, resulting in weak penalties for convicted traffickers.

(16) In some countries, enforcement against traffickers is also hindered by official indifference, by corruption, and sometimes even by official participation in trafficking.

(17) Existing laws often fail to protect victims of trafficking, and because victims are often illegal immigrants in the destination country, they are repeatedly punished more harshly than the traffickers themselves.

(18) Additionally, adequate services and facilities do not exist to meet victims' needs regarding health care, housing, education, and legal assistance, which safely reintegrate trafficking victims into their home countries.

(19) Victims of severe forms of trafficking should not be inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts committed as a direct result of being trafficked, such as using false documents, entering the country without documentation, or working without documentation.

(20) Because victims of trafficking are frequently unfamiliar with the laws, cultures, and languages of the countries into which they have been trafficked, because they are often subjected to coercion and intimidation including physical detention and debt bondage, and because they often fear retribution and forcible removal to countries in which they will face

retribution or other hardship, these victims often find it difficult or impossible to report the crimes committed against them or to assist in the investigation and prosecution of such crimes.

(21) Trafficking of persons is an evil requiring concerted and vigorous action by countries of origin, transit or destination, and by international organizations.

(22) One of the founding documents of the United States, the Declaration of Independence, recognizes the inherent dignity and worth of all people. It states that all men are created equal and that they are endowed by their Creator with certain unalienable rights. The right to be free from slavery and involuntary servitude is among those unalienable rights. Acknowledging this fact, the United States outlawed slavery and involuntary servitude in 1865, recognizing them as evil institutions that must be abolished. Current practices of sexual slavery and trafficking of women and children are similarly abhorrent to the principles upon which the United States was founded.

(23) The United States and the international community agree that trafficking in persons involves grave violations of human rights and is a matter of pressing international concern. The international community has repeatedly condemned slavery and involuntary servitude, violence

against women, and other elements of trafficking, through declarations, treaties, and United Nations resolutions and reports, including the Universal Declaration of Human Rights; the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; the 1948 American Declaration on the Rights and Duties of Man; the 1957 Abolition of Forced Labor Convention; the International Covenant on Civil and Political Rights; the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; United Nations General Assembly Resolutions 50/167, 51/66, and 52/98; the Final Report of the World Congress against Sexual Exploitation of Children (Stockholm, 1996); the Fourth World Conference on Women (Beijing, 1995); and the 1991 Moscow Document of the Organization for Security and Cooperation in Europe.

(24) Trafficking in persons is a transnational crime with national implications. To deter international trafficking and bring its perpetrators to justice, nations including the United States must recognize that trafficking is a serious offense. This is done by prescribing appropriate punishment, giving priority to the prosecution of trafficking offenses, and protecting rather than punishing the victims of such offenses. The United

States must work bilaterally and multilaterally to abolish the trafficking industry by taking steps to promote cooperation among countries linked together by international trafficking routes. The United States must also urge the international community to take strong action in multilateral fora to engage recalcitrant countries in serious and sustained efforts to eliminate trafficking and protect trafficking victims.

V. 28 U.S. Code § 1291 – Final decisions of district courts

The courts of appeals (other than the United States Court of Appeals for the Federal Circuit) shall have jurisdiction of appeals from all final decisions of the district courts of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands, except where a direct review may be had in the Supreme Court. The jurisdiction of the United States Court of Appeals for the Federal Circuit shall be limited to the jurisdiction described in sections 1292(c) and (d) and 1295 of this title.

VI. 28 U.S. Code § 1331 – Federal question

The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

VII. 42 U.S. Code § 1983 - Civil action for deprivation of rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to

be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

VIII. Const. Amend. XIII

Amendment XIII. Slavery Abolished; Enforcement

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.