

NO. 90510-0

SUPREME COURT OF THE STATE OF WASHINGTON

Village Voice Media Holdings, L.L.C., d/b/a Backpage.com;
Backpage.com, L.L.C.; and
New Times Media, L.L.C., d/b/a/ Backpage.com,

Appellants,

v.

J.S., L.L., and L.C. minor children,

Respondents.

**MOTION TO FILE AMICUS BRIEF OF THE STATE OF
WASHINGTON IN SUPPORT OF RESPONDENTS**

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The State of Washington moves for leave under RAP 10.6 to file an amicus curiae brief in the above-captioned matter. The matter is scheduled for oral argument October 21, 2014.

I. INTEREST OF AMICUS CURIAE

The State has a strong interest in enforcing its criminal laws and protecting the safety and welfare of its residents. Arguably, that interest is at its zenith when the safety of children and other vulnerable persons is at risk. This case involves allegations that Backpage.com materially contributes to advertising the sale of children for sex in the State of Washington. The Respondents were themselves forced to become child prostitutes whose involuntary services were advertised on Backpage.com. No child should be placed in that situation. Washington has a strong interest in combatting the trafficking of children for sex, both by opposing persons who do so directly and those who do so indirectly via the Internet.

II. FAMILIARITY WITH THE ISSUES

The undersigned attorney has read the briefing and trial materials and is familiar with the issues in this case.

III. SPECIFIC ISSUES ADDRESSED BY AMICUS CURIAE

Whether the Respondent children alleged facts that, if proved at trial, would show that Backpage.com has acted as an “information content provider,” taking it outside of any immunity provided by § 230 of the Communications Decency Act, 47 U.S.C. § 230.

IV. REASONS FOR ADDITIONAL ARGUMENT

When Congress enacted the Communications Decency Act, one of its primary purposes was to ensure that interactive computer services that monitor their own websites for illegal activity were not more susceptible to liability than services who took no responsibility. 47 U.S.C. § 230(c)(2); *Fair Housing Council of San Fernando Valley v. Roommates.com, LLC*, 521 F.3d 1157, 1164 (9th Cir. 2008) (en banc). To that end, Congress provided interactive computer services with immunity from liability under most state laws for the content of information which they did not create or develop. 47 U.S.C. § 230(e)(3).

As alleged in this case, Backpage.com posts advertisements selling prostitution, sex with children, and other related activities, placing those advertisements in a portion of its website labeled “Escorts,” and organizing the advertisements geographically, so they are readily available to persons who want to purchase sex with a prostitute or with a child forced into prostitution. The Respondent children have alleged facts that, if supported by discovery and proved at trial, could show that the actions taken by Backpage.com to solicit and facilitate these advertisements are outside of any immunity provided under the Communications Decency Act. The State strongly believes the Respondents’ factual allegations are credible and sufficient to withstand Backpage.com’s motion to dismiss, and that the trial court correctly denied the motion.

The Internet has become an important economic engine in Washington and across the country. Protecting legitimate use of the Internet is important. But the Internet also has too often become a haven for the promotion of illegal activity, and the State has an interest in ensuring that broad protections for legitimate internet activities, like the immunity granted in § 230 of the Communications Decency Act, not be expanded beyond their intent and purpose to shield illegal activities they were never intended to cover. This case provides an opportunity for the Court to apply § 230 in a way that balances the desirability of an open Internet with the need to protect children and other vulnerable persons from sexual exploitation through the Internet.

The State's amicus brief will assist the Court by providing it with a public perspective on the conduct alleged by Respondents, whether it is sufficient to overcome Backpage.com's assertion of immunity, and the relationship between the factual allegations here and the purposes to be served by immunity under the Communications Decency Act.

RESPECTFULLY SUBMITTED this 5th day of September 2014.

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