

EXHIBIT G

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

WOODHULL FREEDOM FOUNDATION,)
HUMAN RIGHTS WATCH, ERIC KOSZYK,)
JESSE MALEY, a/k/a ALEX ANDREWS, and)
THE INTERNET ARCHIVE,)

Plaintiffs,)

v.)

THE UNITED STATES OF AMERICA)
and WILLIAM BARR, in his official)
capacity as ATTORNEY GENERAL)
OF THE UNITED STATES,)

Defendants.)

Case No. 1:18-cv-1552-RJL

**DECLARATION OF PLAINTIFF IN SUPPORT OF MOTION FOR SUMMARY
JUDGMENT**

I, Ricci Levy, swear or affirm, under the penalties of perjury pursuant to the laws of the United States, that the following is true and correct.

1. My name is Ricci Levy, I am competent to make this Declaration, and the statements made herein are based on my personal knowledge.

2. I am the President and Chief Executive Officer of the Woodhull Freedom Foundation, a charitable 501(c)(3) tax-exempt organization based in Washington, DC (“Woodhull”).

3. Woodhull was founded in February 2003 and is the only national human rights organization dedicated to affirming and protecting the fundamental human right to sexual freedom.

4. Woodhull envisions sexual freedom as inclusive of the right to enjoy sexual pleasure, form relationships and families of our choosing, and protect our bodies from sexual violence.

5. Woodhull's mission includes support for the health, safety, and protection of sex workers, which includes adult film performers, live webcam models, sexual wellness instructors, escorts, and prostitutes.

6. Woodhull's work is conducted through education, advocacy, lobbying, and collaboration with other organizations.

7. Woodhull's signature event is its annual multi-day Sexual Freedom Summit ("Summit") held in the Washington, DC in late Summer, which brings together hundreds of educators, therapists, legal and medical professionals, and leaders of advocacy organizations to strategize, share information, and work collaboratively to protect the members of our communities and their right to information, health, and pleasure.

8. The historical background of the Summit and Woodhull's difficulties in organizing and promoting the Summit due to FOSTA is fully detailed in the undersigned's initial Declaration submitted in support of Plaintiffs' Motion for Preliminary Injunction (Dkt. No. 5-2).

9. In 2020, due to the COVID-19 pandemic and the practical difficulties in hosting a live, in-person event, Woodhull has been required to present the Summit and conduct its Summit programs exclusively online.

10. Promoting the Summit on Internet platforms such as Facebook and YouTube has proven to be difficult as a result of new content moderation policies imposed by these platforms since the passage of FOSTA.

11. For example, Facebook’s “Community Standards” now prohibit users, in various circumstances, from posting references or material that includes the following:

- a. Derogatory terms related to sexual activity, including but not limited to: whore, slut, perverts;
- b. Terms or phrases calling for engagement in sexual activity, or contact with genitalia or anus, or with feces or urine;
- c. Content that exposes the identity or locations affiliated with any individual who is alleged to be a member of a designated and recognizable at-risk group;
- d. Sexually harassing;
- e. Female-gendered cursing terms when used in a derogatory way;
- f. Statements of intent to engage in a sexual activity or advocating to engage in a sexual activity;
- g. Content sexualizing another adult;
- h. Filmed sexual activities;
- i. Pornographic activities, strip club shows, live sex performances, erotic dances;
- j. Sexual, erotic, or tantric massages;
- k. Sex or sexual partners;
- l. Sex chat or conversations; and,
- m. Nude photos/videos/imagery.

12. Facebook’s updates to its Community Standards since June 2018 can be found here: https://www.facebook.com/communitystandards/recentupdates/all_updates.

13. Woodhull’s attempts to advertise its Summit programs in 2020 have been repeatedly rejected by Facebook, as detailed in Exhibit 1.

14. Woodhull has posted similar ads for sexually-oriented Summit programs prior to the passage of FOSTA which were not rejected by Facebook.

15. Woodhull believes that future attempts to promote its Summit programs will likewise be rejected by Facebook, potentially risking permanent termination of its account and loss of over 7,800 followers.

16. Woodhull has therefore censored its own Facebook advertising which has hampered its ability to promote the Summit and accomplish its mission.

17. YouTube has also adopted restrictive Community Guidelines relating to sexually-oriented material and conduct on its platform such as:

- a. Depiction of genitals, breasts, or buttocks (clothed or unclothed) for the purpose of sexual gratification;
- b. Pornography depicting sexual acts, genitals, or fetishes for the purpose of sexual gratification;
- c. Masturbation or fondling of genitals, breasts, or buttocks;
- d. Using or displaying sex toys to provide viewers with sexual gratification;
- e. Celebrity wardrobe accidents or nude photo leaks;
- f. Violent, graphic, or humiliating fetish content where the purpose is sexual gratification;
- g. Nudity or partial nudity for the purpose of sexual gratification;
- h. Explicit or implied depiction of sex acts for the purpose of sexual gratification
- i. Animated sex acts, pornography, or fetish content;
- j. Non-consensual sex acts or unwanted sexualization;
- k. Bestiality or promotion of bestiality;

- l. Incest or promotion of incest;
- m. Aggregating content for the purpose of sexual gratification; and,
- n. Any sexual content involving minors.

18. YouTube publishes its current Community Guidelines relating to sexually-oriented content here: <https://support.google.com/YouTube/answer/2802002>.

19. Based on its own reporting, YouTube has removed over 6 million videos and terminated almost 2 million user channels in the first quarter of 2020 alone. *See* <https://transparencyreport.google.com/YouTube-policy/removals?hl=en>.

20. Woodhull currently uses Facebook to livestream the video of its Summit programs, uses Facebook and YouTube to archive the videos, and uses Zoom or Streamyard to connect panel participants via videoconference.

21. Fearing termination of its YouTube channel with over 11 years of archived videos, Woodhull has chosen not to “livestream” its Summit programs on YouTube due to the platform’s broad prohibitions on sexually-oriented material. Specifically, Woodhull concluded that livestreaming its content would call more attention to the archived materials and potentially risk termination of its channel by YouTube.

22. Woodhull has postponed or abandoned additional Summit programs in 2020 relating to human sexuality, sex work, and/or prostitution due to concerns over removal of the material or termination of its accounts by Facebook, YouTube, Zoom, and/or Streamyard.

23. Woodhull originally intended to develop and launch its own online video sharing platform to conduct its virtual Summit in 2020. But after substantial evaluation of the legal risks, its Board of Directors voted not to proceed due to fears of criminal prosecution or civil liability under FOSTA. Specifically, FOSTA’s broad prohibitions on operating a computer service which

promotes or facilitates prostitution of another person could be interpreted to apply to one or more of Woodhull's virtual Summit programs which feature sex workers and openly discuss issues relating to prostitution.

24. Since the passage of FOSTA in April 2018, large online platform providers have adopted content moderation restrictions that are increasingly hostile towards any sort of sexual expression and hamper Woodhull's mission of advocating for sexual freedom.

25. Given the timing and substance of these changes in content moderation policies, along with Woodhull's experience with online platforms prior to FOSTA, Woodhull believes that the restrictions are a direct result of the new criminal penalties and increased risk of civil liability created by FOSTA.

26. Woodhull is aware of the various civil claims brought against online platform providers under FOSTA, along with the pending criminal prosecution against cityxguide.com based on alleged violation of 18 U.S.C. § 2421A, created by FOSTA.

27. Woodhull has censored its own promotional materials relating to the Summit based on the credible fear of liability under FOSTA and the risk of having its access to online platforms terminated.

28. FOSTA has hampered Woodhull's mission of affirming sexual freedom as a fundamental human right and forced Woodhull to censor its online expression.

Dated this 19th day of August, 2020.



Ricci Levy, President & CEO
Woodhull Freedom Foundation