

July 29, 2013

Honorable Dennis M. Cavanaugh  
Frank R. Lautenberg U.S. Post Office and  
Courthouse Building, Room 451  
Federal Square  
Post Office Box 999  
Newark, New Jersey 07101-0999

Re: *Backpage.com v. John Jay Hoffman*  
Docket No. 2:13-CV-03952

*The Internet Archive v. John Jay Hoffman*  
Docket No. 2:13-CV-03953

Dear Judge Cavanaugh:

I represent *amici* in the above captioned matters. *Amici* are approximately 50 public interest and citizens groups that work to combat human trafficking in New Jersey, nationally and internationally.

I write to bring to the Court's attention the attached letter, dated July 23, 2013, written by the National Association of Attorneys General, and signed by 49 State Attorneys General, including New Jersey's Acting Attorney General. The letter asks Congress to amend the Communications Decency Act (CDA), which is at issue in the two cases the Court is considering.

As the attached letter states: "It is ironic that the CDA, which was intended to protect children from indecent material on the internet, is now used as a shield by those who intentionally profit from prostitution and crimes against children." The letter continues by giving examples of how Backpage.com was used recently to sell children into prostitution:

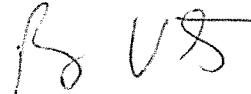
In the last few months alone, law enforcement agencies throughout the nation have linked sex-trafficking operations to internet advertisers. For example on March 28, Miami police arrested a man for advertising the sex services of a 13-year old girl on Backpage.com. The perpetrator had tattooed his name across the girl's eyelids, marking her as his property. Two months earlier, two men were arrested in Fairfax County, Virginia for

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prostituting four minors on Backpage.com. And on April 10, four males and one female were arrested in St. Paul, Minnesota for running a prostitution ring of eight girls and women ages 15 to 40. The girls and women were advertised on Backpage.com. These examples offer just a small sampling of the countless instances of child sex trafficking that occurs every day in the United States.

This letter was sent to members of Congress four days after *amici* filed their brief. *Amici* respectfully request that the Court consider this letter in deciding the cases before the Court. As discussed in our brief, there is no need to address the plaintiffs' other constitutional claims if the Court finds that New Jersey's statute is pre-empted by the CDA.

Respectfully submitted,



Penny M. Venetis

cc: Stuart Feinblatt, DAG  
Bruce Rosen, Esq.  
Frank Corrado, Esq.



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July 23, 2013

The Honorable John Rockefeller IV  
Chairman  
Committee on Commerce, Science,  
and Transportation  
United States Senate

The Honorable Frederick Upton  
Chairman  
Committee on Energy and Commerce  
United States House of Representatives

The Honorable John Thune  
Ranking Member  
Committee on Commerce, Science,  
and Transportation  
United States Senate

The Honorable Henry Waxman  
Ranking Member  
Committee on Energy and Commerce  
United States House of Representatives

Dear Senator Rockefeller, Senator Thune, Representative Upton, and  
Representative Waxman:

Every day, children in the United States are sold for sex. In instance after instance, State and local authorities discover that the vehicles for advertising the victims of the child sex trade to the world are online classified ad services, such as Backpage.com. The involvement of these advertising companies is not incidental—these companies have constructed their business models around income gained from participants in the sex trade. But, as it has most recently been interpreted, the Communications Decency Act of 1996 (“CDA”) prevents State and local law enforcement agencies from prosecuting these companies. This must change. The undersigned Attorneys General respectfully request that the U.S. Congress amend the CDA so that it restores to State and local authorities their traditional jurisdiction to investigate and prosecute those who promote prostitution and endanger our children.

It is ironic that the CDA, which was intended to protect children from indecent material on the internet,<sup>1</sup> is now used as a shield by those who intentionally profit from prostitution and crimes against children. Federal courts have broadly interpreted the immunity provided by the CDA,<sup>2</sup> and recently the United States District Court for the Western District of

<sup>1</sup> 104 CONG. REC. S2308-01 (daily ed. June 14, 1995) (statement of Sen. Coats, “Mr. President, all you have to do is pick up the telephone and call the FBI, ask their child exploitation task force about the volume of over-the-Internet attempts to seduce, abuse, and lure children into pornography and sexual exploitation.”); 104 CONG. REC. H8470 (daily ed. Aug. 4, 1995) (statement of Rep. Cox, “We want to encourage people like Prodigy, like CompuServe, like America Online, like the new Microsoft network, to do everything possible for us, the customer, to help us control, at the portals of our computer, at the front door of our house, what comes in and what our children see.”).

<sup>2</sup> See *M.A. v. Village Voice Media Holdings, LLC*, 809 F.Supp. 2d 1041; *Dart v. Craigslist*, 665 F.Supp.2d 961 (N.D. Ill. 2009); *Doe v Bates*, 2006 WL 3813758 \*1 (E.D. Tex. Dec. 27, 2006).

Washington held that the CDA preempts state criminal law.<sup>3</sup> As online advertising of child prostitution goes unchecked, sex traffickers are able to expand their businesses, magnifying the scope of the problem. In the last few months alone, law enforcement agencies throughout the nation have linked sex-trafficking operations to internet advertisers. For example, on March 28, Miami police arrested a man for advertising the sex services of a 13-year-old girl on Backpage.com. The perpetrator had tattooed his name across the girl's eyelids, marking her as his property.<sup>4</sup> Two months earlier, two men were arrested in Fairfax County, Virginia for prostituting four minors on Backpage.com.<sup>5</sup> And on April 10, four males and one female were arrested in St. Paul, Minnesota for running a prostitution ring of eight girls and women ages 15 to 40. The girls and women were advertised on Backpage.com.<sup>6</sup> These examples offer just a small sampling of the countless instances of child sex trafficking that occurs every day in the United States.

In order to better combat such crimes, we recommend that 47 U.S.C. § 230(e)(1) be amended to the following (added language in bold):

Nothing in this section shall be construed to impair the enforcement of section 223 or 231 of this title, chapter 71 (relating to obscenity) or 110 (relating to sexual exploitation of children) of Title 18, or any other Federal **or State** criminal statute.

Federal enforcement alone has proven insufficient to stem the growth of internet-facilitated child sex trafficking. Those on the front lines of the battle against the sexual exploitation of children—State and local law enforcement—must be granted the authority to investigate and prosecute those who facilitate these horrible crimes.

Respectfully,



Chris Koster  
Missouri Attorney General



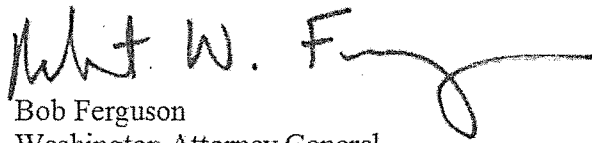
Marty Jackley  
South Dakota Attorney General

<sup>3</sup> Backpage.com, LLC v. McKenna, 881 F.Supp.2d 1262 (W.D. Wash., July 27, 2012).

<sup>4</sup> David Ovalle, *Police: Miami Pimp Forced Teen to Tattoo His Name on Her Eyelids*, THE MIAMI HERALD, March 28, 2013, available at <http://www.miamiherald.com/2013/03/28/3312163/police-miami-pimp-forced-teen.html>. (Last visited, April 12, 2013).

<sup>5</sup> Pamela Brown, *Police Bust Prostitution Ring in Herndon*, ABC 7, January 11, 2013, available at <http://www.wjla.com/articles/2013/01/police-bust-prostitution-ring-in-herndon--83981.html>. (Last visited, April 12, 2013).

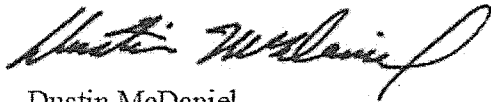
<sup>6</sup> Emily Gumon, *St. Paul Prostitution Ring Busted; Young, Vulnerable Girls Trafficked, Charges Say*, ST. PAUL PIONEER PRESS, April 10, 2013, available at [http://www.twincities.com/ci\\_22994804/st-paul-sex-ring-preyed-vulnerable-young-women](http://www.twincities.com/ci_22994804/st-paul-sex-ring-preyed-vulnerable-young-women). (Last visited, April 12, 2013).



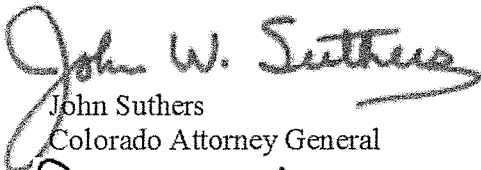
Bob Ferguson  
Washington Attorney General



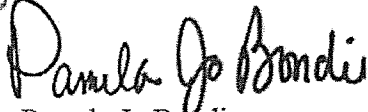
Michael Geraghty  
Alaska Attorney General



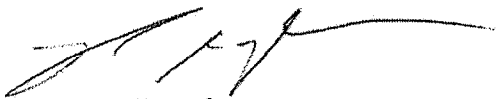
Dustin McDaniel  
Arkansas Attorney General



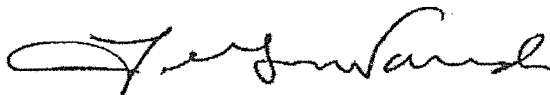
John Suthers  
Colorado Attorney General



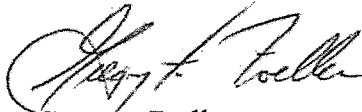
Pamela Jo Bondi  
Florida Attorney General



Lenny Rapadas  
Guam Attorney General



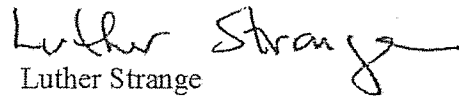
Lawrence Wasden  
Idaho Attorney General



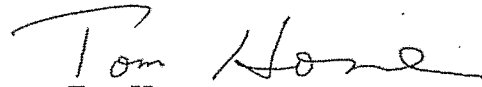
Gregory Zoeller  
Indiana Attorney General



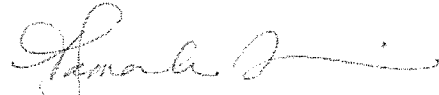
Derek Schmidt  
Kansas Attorney General



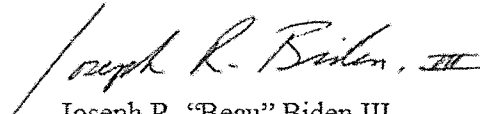
Luther Strange  
Alabama Attorney General



Tom Horne  
Arizona Attorney General



Kamala Harris  
California Attorney General



Joseph R. "Beau" Biden III  
Delaware Attorney General



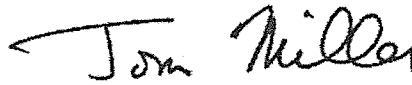
Samuel S. Olens  
Georgia Attorney General



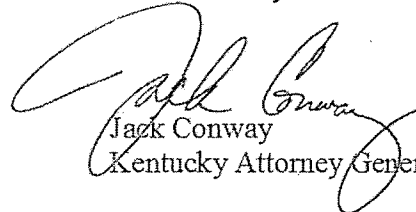
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Hawaii Attorney General



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Nevada Attorney General

Joseph Foster  
New Hampshire Attorney General

John J. Hoffman  
Acting New Jersey Attorney General

Gary King  
New Mexico Attorney General


Eric T. Schneiderman  
New York Attorney General

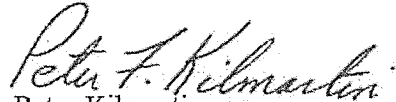
Roy Cooper  
North Carolina Attorney General

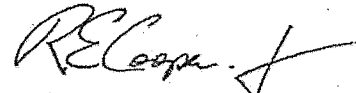
Wayne Stenehjem  
North Dakota Attorney General

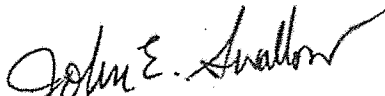
Mike DeWine  
Ohio Attorney General


Scott Pruitt  
Oklahoma Attorney General

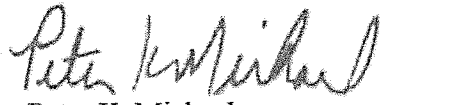
  
Ellen F. Rosenblum  
Oregon Attorney General


  
Peter Kilmartin  
Rhode Island Attorney General

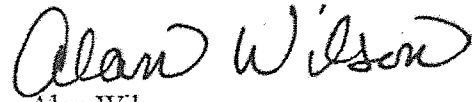
  
Robert E. Cooper, Jr.  
Tennessee Attorney General

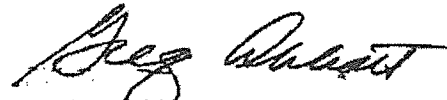
  
John Swallow  
Utah Attorney General

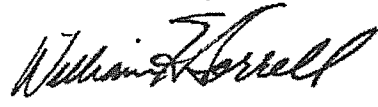
  
Vincent Frazer  
Virgin Islands Attorney General

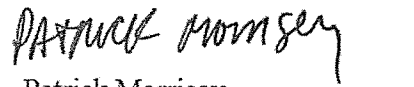
  
Peter K. Michael  
Acting Wyoming Attorney General

  
Kathleen Kane  
Pennsylvania Attorney General

  
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South Carolina Attorney General

  
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