

EXHIBIT A

**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.

UNITED STATES OF AMERICA)
and JEFFERSON B. SESSIONS,)
in his Official Capacity as)
ATTORNEY GENERAL OF)
THE UNITED STATES,)

Defendants.

Case No. 18-cv-01552 (RJL)

DECLARATION OF KATE D'ADAMO

Pursuant to 28 U.S.C. § 1746, I, KATE D'ADAMO, hereby declare as follows:

1. The facts contained in the following affidavit are known to me of my own personal knowledge, and if called upon to testify, I could and would competently do so. I am a sex worker rights advocate who for more than 12 years has focused on economic justice, anti-policing and incarceration and public health issues related to sex work. I received a bachelor of arts degree in political science in 2006 from California Polytechnic State University, San Luis Obispo and a master's degree in international affairs in 2012 from The New School University.

2. The Allow Victims to Fight Online Sex Trafficking Act ("FOSTA") has resulted in the loss of online platforms and other digital services that sex workers rely upon to stay safe

and share information. As discussed below, sex workers have been harmed by the loss of these services.

History of Sex Worker Advocacy

3. I am a partner at Reframe Health and Justice, a consulting collective which works on issues related to harm reduction and criminal-legal reform, especially in forms which predominantly impact women and femmes. My previous work includes serving as the National Policy Advocate at the Sex Workers Project at the Urban Justice Center. In that position, I focused on laws, policies and advocacy surrounding individuals who trade sex, including the criminalization of sex work, anti-trafficking policies, and HIV-specific laws.

4. Prior to joining the Sex Workers Project, I was a community organizer and advocate with the Sex Workers Outreach Project and Sex Workers Action New York. In this role, I developed programming to promote community building, provided peer support and advanced political advocacy to support the rights and well-being of people engaged in the sex trade both on and off the job.

5. I have also participated in coalitions such as the Human Rights for All campaign, which sought to incorporate sex worker rights within the Universal Periodic Review, and was a founding member of the Persist Health Project, a community-based health program for people who trade sex.

6. As part of my advocacy for sex workers' rights, I worked with a broader coalition to oppose the Allow State and Victims to Fight Online Sex Trafficking Act (H.R. 1865) ("FOSTA") and the Stop Enabling Sex Traffickers Act (S. 1693) ("SESTA") as they moved through Congress. I previously served as a member of the board of directors of Plaintiff Woodhull Freedom Foundation.

Creation of Survivors Against SESTA website

7. Along with a coalition of other sex worker advocates, sex workers, and their allies, I helped create the website Survivors Against SESTA, www.survivorsagainstsesta.org. The coalition who created Survivors Against SESTA were concerned about the impact the law would have on sex workers and the websites and other online services they rely upon to stay safe. The website was created to support sex workers, to disseminate information about the bill and potential advocacy that individuals could engage in, and to gather and post information about sex workers' legal rights and how they can work safely.

8. The organizers of Survivors Against SESTA also held multiple calls with members of the sex worker community throughout the United States to disseminate the information we had collected. Additionally, advocates, both in association with Survivors Against SESTA and independently, organized know your rights trainings and community meet-ups in multiple cities with the goal of sharing information about the then-pending legislation and connecting organizers with people who would be affected by the law.

9. The organizers of Survivors Against SESTA arranged the first national sex worker lobby day on June 1. Dozens of sex workers and their allies traveled to Washington, D.C. to meet with their representatives' offices. At the same time, advocates in cities throughout the country hosted events to help with education and outreach for sex workers' rights. On June 2, sex workers and their allies arranged rallies and marches in 15 cities across the country.

10. Survivors Against SESTA also decided to document some of the impact of the legislation. Even before FOSTA became law, the creators of Survivors Against SESTA and the broader community advocating on behalf of sex workers began noticing that certain websites and online services used by sex workers were changing their policies, removing certain services, or

shutting down completely. It appeared to us as though many were doing so out of fear and uncertainty regarding their potential liability under SESTA. In June 2018, the organizers announced that we were sunsetting the campaign and website.

FOSTA's Impact on Services Used by Sex Workers

11. During the period that Survivors Against SESTA was active, it served as a central location to document FOSTA's impact on the online services' reactions to the law. These changes included:

12. The online classified ads website Craigslist, www.craigslist.com, shut down its personals section on March 23, publicly attributing the closure to the Senate's passage of FOSTA. In a post on its website, Craigslist wrote:

US Congress just passed HR 1865, "FOSTA", seeking to subject websites to criminal and civil liability when third parties (users) misuse online personals unlawfully.

Any tool or service can be misused. We can't take such risk without jeopardizing all our other services, so we are regretfully taking craigslist personals offline. Hopefully we can bring them back some day.

To the millions of spouses, partners, and couples who met through craigslist, we wish you every happiness!

See <https://www.craigslist.org/about/FOSTA>. A true and correct copy is attached as Exhibit 1.

13. Around the same time, Reddit published an announcement that specifically banned "Paid services involving physical sexual contact." *See* https://www.reddit.com/r/announcements/comments/863xcj/new_addition_to_sitewide_rules_regarding_the_use/. A true and correct copy is attached as Exhibit 2.

14. Reddit also began to remove several "subreddits" relating to sex, including: r/Escorts, r/MaleEscorts, r/Hookers, and r/SugarDaddy. Elizabeth Nolan Brown, "Hours After FOSTA Passes, Reddit Bans 'Escorts' and 'SugarDaddy' Communities," REASON (March 22,

2018 10:35 am), <https://reason.com/blog/2018/03/22/reddit-bans-escort-subreddits>. A true and correct copy is attached as Exhibit 3. The moderator of the r/sexworkers subreddit—which is described as “a community forum for sex workers, clients, and even those unaffiliated with the industry to come together and ask questions and share resources”—received a warning that the subreddit could be shut down if administrators felt that it infringed on Reddit’s new policy. Tina Horn, “How a New Senate Bill Will Screw Over Sex Workers,” ROLLINGSTONE (March 23, 2018), <https://www.rollingstone.com/politics/features/controversial-anti-sex-trafficking-bill-screw-over-sex-workers-w518323>. A true and correct copy is attached as Exhibit 4.

15. Additionally, VerifyHim, a tool that helps sex workers avoid abusive clients and describes itself as “the biggest dating blacklist database on earth,” said at the around same time that it was “working to change the direction of the site.” Nitasha Tiku, “Craigslist Shuts Personal Ads For Fear of New Internet Law,” Wired (March 23, 2018), <https://www.wired.com/story/craigslist-shuts-personal-ads-for-fear-of-new-internet-law/>. A true and correct copy is attached as Exhibit 5.

16. In the days immediately before and after FOSTA became law, several other online platforms, websites and services either changed their behavior or shut down entirely. Some examples include:

- The Google Play Store Google Play updated its policy to ban explicit content such as “promotional images of sex toys” and “apps that promote escort services.” <https://play.google.com/about/restricted-content/inappropriate-content/sexually-explicit-content/>. Google also began deleting explicit content that users uploaded to its Google Drive service and also appeared to lock out users from the service. Samantha Cole, “Sex workers are reporting that their Google Drive files are

mysteriously locked or vanishing,” Motherboard (March 21, 2018),

https://motherboard.vice.com/en_us/article/9kgwnp/porn-on-google-drive-error.

A true and correct copy is attached as Exhibit 6.

- Eventbrite, the online ticketing and event service, updated its policies to prohibit events that would “constitute or promote . . . explicit sexual activity or pornography.”

https://www.eventbrite.com/support/articles/en_US/Troubleshooting/community-guidelines.

- The “adult-ad forum” CityVibe.com disappeared two days after the President signed FOSTA. Elizabeth Nolan Brown, “The New Law That Killed Craigslist’s Personals Could End the Web As We’ve Known It,” THE DAILY BEAST (Mar. 23, 2018), <https://www.thedailybeast.com/the-new-law-that-killed-craigslist-personals-could-end-the-web-as-weve-known-it>. A true and correct copy is attached as Exhibit 7.

- Pounced.org, a personals website serving the “furry” community, shut down, explaining that as a free site staffed by volunteers, it could not manage the news burden created by potential liability under section 2412A if it did not have the protection of section 230:

“FOSTA changes that in a way that makes sites operated by small organizations like pounced.org much riskier to operate. FOSTA essentially says that if we facilitate the prostitution of another person we're liable. If you read FOSTA carefully the bill says "or facilitate" - the problem is that "or facilitate" is ill-defined.

. . .

“We don't promote prostitution or sex trafficking. We're a personals site for the furry community, our goal was to allow members of our community to

have a personals site dedicated solely to the community, and we've tried to serve our community well.

“The problem is, with limited resources and a small volunteer staff, our risk for operating the site has now significantly increased. Now if someone posts an ad looking to exchange sex for something to pounced.org, and we don't catch it, is that facilitating prostitution? Is it enough to simply re-train our volunteer staff and update our terms of service?

“Do we try to filter advertisements and forum posts? Do we ask our volunteer staff to take on the burden of reviewing all personal ads to insure we're in compliance - and what if they miss one? If we try to implement filtering will it be anything other than intrusive and ineffective, given the resources of a small organization like ours?

“And we must now account for the fact that our liability to operate a service such as pounced.org has unequivocally increased, especially given that FOSTA explicitly makes this a criminal liability.

“We now can be held accountable for the actions of others using our service.

...

“In many ways this bill targets small sites like ours directly, it favors organizations with the resources to invest in filtering technology, paid staff and legal support staff. It is less of an impediment for big organizations, while doing significant harm to small organizations like ours, which service niche communities like ours. Our larger competitors are not likely to find a large market in servicing the furry community, and so our community will suffer.”

Archived at <https://web.archive.org/web/20180503181331/http://pounced.org/why.html>. A true and correct copy is attached as Exhibit 8.

- The adult live streaming website MyFreeCams changed its policies to specifically ban its performers and its users from engaging in any transactions, including offering to meet up in person in exchange for anything of value.
https://wiki.myfreecams.com/wiki/Rules_and_Guidelines.
- First Choice Pay, an online payment processor and platform used by online adult livestreaming performers, stopped receiving or processing payments shortly after passage of FOSTA. <https://firstchoicepay.custhelp.com/>.

- A number of other adult websites, such as www.myscarlettbook.com, www.escortdesign.com/, and www.getluckyhere.com, shut down.

FOSTA Long-Term Impact on Sex Workers

17. FOSTA's impact on online services and the sex workers who relied upon them have directly harmed their ability to stay safe, share information, and build community. Some of those documented harms are discussed below.

18. A 2020 community study on FOSTA's effects states:

this law is contributing to the poverty that makes an individual more susceptible to labor exploitation and trafficking. By censoring the way that sex workers communicate with each other online, this law is also responsible for the dissolution of harm reduction tactics that allow workers to educate each other by sharing experiences with violent clients, exploitative management, and labor exploitation.

Daniel Blunt and Ariel Wolff, *Erased: The Impact of FOSTA-SESTA & the Removal of Backpage* (2020), 18 (“*Erased*”), <https://hackinghustling.org/erased-the-impact-of-fosta-sesta-2020/>. A true and correct copy is attached as Exhibit 9.

19. Other findings of *Erased* include:

- “There is no evidence that FOSTA-SESTA has done anything to prevent sexual labor exploitation. Our research shows that this law has actually put people in more precarious financial situations that actually make individuals more vulnerable to trafficking, as well as de-creasing access to previously established channels of communication used to protect sex workers against violence.” *Erased* at 35.
- “FOSTA-SESTA has reduced the number of sites that sex workers use to find clients, community and share harm reduction working tips.” *Erased* at 19.

- “Our research suggests that individuals who work online experienced a greater increase of violence than those who were already working on the streets after the removal of Backpage and the passage of FOSTA-SESTA.” *Erased* at 23.
- “The Internet provided a space for sex workers to share resources, build community, and advertise their services. Sex workers who use social media to connect with community or share harm-reduction working tools may now find themselves isolated from their trusted networks and unable to find community members through regular searches.” *Erased* at 25.

20. A 2018 survey by a coalition of sex workers in Rhode Island—Call Off Your Old Tired Ethics (“COYOTE”)—found that sex workers had lost income and tools to stay safe as a result of FOSTA. COYOTE-Rhode Island, *After FOSTA, It’s Like Hunger Games on Sex Workers* (May 22, 2018), <http://coyoteri.org/wp/after-fosta-its-like-hunger-games-on-sex-workers/>. A true and correct copy is attached as Exhibit 10. A presentation analyzing the survey’s results details how 60 percent of respondents said that had engaged in less safe work since FOSTA’s passage and that there was a 28 percent drop in sex workers ability to screen clients, largely because online services workers previously relied upon had shut down or prohibited sex workers from using them. <http://www.swop-seattle.org/wp-content/uploads/2018/11/COYOTE-Survey-Results-2018.pdf>. A true and correct copy is attached as Exhibit 11.

21. News reports also described how FOSTA increased danger for sex workers because online services they previously used were no longer available. April Glaser, *There Is No New Backpage* (Feb. 13, 2019), <https://slate.com/technology/2019/02/backpage-sex-workers-fosta-sesta-swifter-tryst-trafficking.html>. A true and correct copy is attached as Exhibit 12.

22. FOSTA's removal of online spaces that sex workers used runs counter to research that demonstrated that the presence of Craigslist in a community increased safety. Scott Cunningham et al., *Craigslist Reduced Violence Against Women*, <http://scunning.com/craigslist110.pdf>. A true and correct copy is attached as Exhibit 13.

23. Another study by an organization that provides housing to those who need it, including individuals they describe as victims of sex trafficking, reported that FOSTA led to an increase violence against sex workers and has made it more difficult for law enforcement to pursue trafficking investigations. *Research Brief After FOSTA-SESTA*, The Samaritan Women's Institute for Shelter Care (2018) at 4-6 ("Research Brief"), <https://thesamaritanwomen.org/wp-content/uploads/2020/02/After-SESTA-FOSTA.pdf>.

24. The Research Brief states that its purpose "was to assess whether the FOSTA-SESTA legislation had/is having an impact on shelter agencies' referrals or operations."

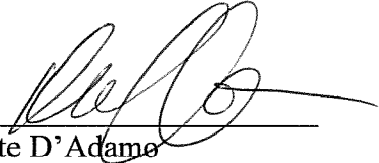
Responses to the survey included:

- "SESTA has done absolutely nothing to improve anything in [our city]. In fact, it has definitely made things worse. Street-level activity is up. Gang involvement in prostitution is up. Website [sic] are still active. There has been absolutely no improvement or change."
- "Clients on the whole experiencing more violent assaults since no longer able to use online platforms to advertise and screen johns."
- "The women we interact with are frustrated by the changes and feel it makes their jobs more dangerous."

- “Our partners in law enforcement had to abandon several pending investigations and have had a much more difficult time finding/locating missing youth and/or being able to coordinate undercover sting operations.”

25. I declare under penalty of perjury of the laws of the State of Maryland that the foregoing is true and correct to the best of my knowledge and belief.

Executed on this 28th day of August 2020 at Baltimore, Maryland.



Kate D'Adamo