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WLF Urges Texas High Court To Apply Section 230 Internet Free-Speech Protection As Written

(*In re Facebook, Inc.*)

“For a state high court, this is about as straightforward as it gets. The justices are being asked simply to adhere to section 230’s plain meaning, just as dozens of other courts have done.”

—Corbin K. Barthold, WLF Senior Litigation Counsel

WASHINGTON, DC—Washington Legal Foundation today filed an *amicus curiae* brief urging the Texas Supreme Court to faithfully apply section 230 of the Communications Decency Act. WLF’s brief was submitted *pro bono* by the prominent appellate attorney Scott A. Keller of Baker Botts L.L.P.

Enacted in 1996, section 230 generally protects anyone on the web from being held liable for the speech of a third party. “No provider or user of an interactive computer service,” section 230(1) states, “shall be treated as the publisher or speaker of any information provided by another information content provider.” This protection for web platforms (and all users of such platforms) is often said to have enabled the creation of the internet as we know it.

Section 230 is a straightforward immunity. It has been applied consistently across several decades and many dozens of cases. It protects free expression by ensuring that platforms are not sued out of existence because of what *other* people say on the internet.

WLF’s brief urges the Texas Supreme Court to apply section 230 as written in a case in which the lower courts effectively set the statute aside. The plaintiffs pointed to recent statutory amendments that allow certain *federal* civil claims and state *criminal* claims to be brought against platforms. The plaintiffs, however, bring only *state civil* claims that remain barred by section 230.

The case is an example of bad facts making bad law: the plaintiffs allege that they are, tragically, victims of trafficking. But as WLF’s brief explains, Congress has crafted a careful policy balance, one that contains other avenues to combat trafficking that do not curtail the vital protections that section 230 creates for platforms and their users.

WLF is grateful to Mr. Keller, his associate Jeremy Evan Maltz, and Baker Botts for their *pro bono* assistance with the brief.

Celebrating its 43rd year, WLF is America’s premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.

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