

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS EASTERN
DIVISION**

THOMAS DART, SHERIFF OF COOK)
COUNTY,)
)
) Plaintiff,)
)
v.)
)
CRAIGSLIST, INC.,)
) Defendant.)
-----)

Judge John F. Grady

Magistrate Judge Nan R. Nolan

Case No. 09 CV 1385

**BRIEF OF *AMICUS CURIAE*, THE COALITION AGAINST
TRAFFICKING IN WOMEN**

TABLE OF CONTENTS

I.	INTEREST OF AMICUS CURIAE.....	1
II.	ARGUMENT OF AMICUS CURIAE.....	3
	1. SEX TRAFFICKING IS PREVALENT, MADE MORE SO BY THE INTERNET, INCLUDING ITS ADVERTISING FOR PROSTITUTED SEX.	3
	2. PROSTITUTION IS DAMAGING AND NOT USUALLY FREELY CHOSEN.....	5
	3. WOMEN AND CHILDREN ARE TRAFFICKED FOR PROSTITUTION THROUGH CRAIGSLIST, WHICH PROFITS.....	7
III.	CONCLUSION	12

TABLE OF AUTHORITIES

Statutes	PAGE
White-Slave Traffic (Mann) Act, ch. 395, 36 Stat. 825 (1910) (codified as amended at 18 U.S.C. §§ 2421–2424 (2000))	9
Trafficking Victims Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464 (codified as amended in sections of 8, 18, 20, 22, 27, 42 U.S.C.)	2
William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, 122 Stat. 5044 (codified in sections of 8, 18, 22, 42 U.S.C.), <i>available at</i> http://www.govtrack.us/congress/billtext.xpd?bill=h110-7311	2
 Treaties	
Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, <i>entered into force on</i> July 25, 1951, 96 U.N.T.S. 71	1
Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, G.A. Res. 55/25, U.N. Doc. A/RES/55/25 (Nov. 15, 2000).	1, 2
Slavery Convention, <i>entered into force on</i> Mar. 9, 1927, <i>entered into force for the U.S. on</i> Mar. 21, 1929, 46 Stat. 2183, 60 L.N.T.S. 253	1
 U.S. Cases	
<i>Tel-Oren v. Libyan Arab Republic</i> , 726 F.2d 774 (D.C. Cir. 1984).....	2
 Other Authorities	
Jenn Abelson, <i>Craigslist Changes Get Early Approval, But Advocates Wait To See If Ads Make A Return</i> , Boston Globe, June 2, 2009, <i>available at</i> http://www.boston.com/business/articles/2009/06/02/craigslist_ad_changes_get_early_approval/	11
Abbie Alford, <i>Online Sex For Sale</i> , Fox23.com, Apr. 2, 2009, http://www.fox23.com/content/solvingproblems/story/Online-Sex-For-Sale/GwqPO79BNE2vU6RWF39J4w.csp	9
<i>Assessment of U.S. Government Activities to Combat Trafficking in Persons</i> , 2008 Att’y Gen. Ann. Rep. 4.	2
Debra Boyer, Lynn Chapman, & Brent K. Marshall, Nw. Res. Assoc., <i>Survival Sex in King County: Helping Women Out</i> (1993).....	6
Child Exploitation and Obscenity Section, U.S. Dep’t of Justice, <i>Child Sex Tourism</i> http://www.usdoj.gov/criminal/ceos/sextour.html (last visited July 28, 2009)	4
Coalition Against Trafficking in Women, et al., <i>Statement Submitted to the United Nations Economic and Social Council’s Commission on the Status of Women</i> (2009), <i>available at</i> http://daccessdds.un.org/doc/UNDOC/GEN/N08/643/70/PDF/N0864370.pdf?OpenElement	7
craigslist Alaska adult services website (last visited June 5, 2009), http://anchorage.craigslist.org (follow “Services: adult” hyperlink).	9

craigslist Chicago adult services website (last visited July 9, 2009), http://chicago.craigslist.org (follow “Services: adult” hyperlink)	8, 9
craigslist Indonesia erotic services website (last visited June 7, 2009), http://jakarta.craigslist.org (follow “Services: erotic” hyperlink)	10
craigslist New York adult services website (last visited July 17, 2009), http://newyork.craigslist.org (follow “Services: adult” hyperlink)	8
craigslist Panama erotic services website (last visited June 6, 2005), http://panama.en.craigslist.org (follow “Services: erotic” hyperlink)	10
craigslist Vietnam erotic services website (last visited July 27, 2009), http://vietnam.craigslist.org (follow “Services: erotic” hyperlink)	8, 10
E.U. & International Organization for Migration, <i>A Guide for Members of Law Enforcement, Judiciary, and NGOs/IOs on Best Practices in Combating Trafficking in Persons</i> (2003), available at http://www.belgium.iom.int/AGIS2003/pdf/AGIS%20I%20-%20Guides/EnglishStudent.pdf	7
Melissa Farley, <i>Prostitution & Trafficking in Nevada: Making the Connections</i> (2007).....	<i>passim</i>
Melissa Farley, Jacqueline Lynne & Ann J. Cotton, <i>Prostitution and Trafficking in Nine Countries: An Update on Violence and Posttraumatic Stress Disorder</i> , <i>J. of Trauma Practice</i> 2004, at 33	6,7
Melissa Farley et al., <i>Prostitution in Vancouver: Violence and the Colonization of First Nations Women</i> , 42 <i>Transcultural Psychiatry</i> 242 (2005)	6
Donna M. Hughes, <i>The Internet and Sex Industries: Partners in Global Sexual Exploitation</i> , <i>Technology and Society Mag.</i> , Spring 2000, available at http://www.uri.edu/artsci/wms/hughes/siii.htm	4
Susan Kay Hunter, <i>Prostitution is Cruelty and Abuse to Women and Children</i> , 1 <i>Mich. J. Gender & L.</i> 91 (1993).....	6
Adam Lashinsky, <i>Burning Sensation</i> , <i>CNN Money.com</i> , Dec.12, 2005, available at http://money.com/magazines/fortune/fortune_archive/2005/12/12/8363113/index.htm	11, 12
Letter from Carolyn Maloney, et al., Members of Cong., U.S. House of Representatives to Craig Newmark, Founder, craigslist, and James Buckmaster, Chief Executive Officer, craigslist (June 10, 2009), available at http://humantrafficking.files.wordpress.com/2009/06/congressionalcraigslistletter2009-06-10.pdf	9
Jessica Logan, <i>Internet Replacing Streetwalking for Inland Prostitution</i> , <i>Press Enterprise</i> , Jan.1, 2008, available at http://www.pe.com/localnews/sbcounty/stories/PE_News_Local_S_prostitution02.9893.htm 1.....	<i>passim</i>
Catharine A. MacKinnon, <i>Prostitution and Civil Rights</i> , 1 <i>Mich. J. Gender & L.</i> 13 (1993).	5
Francis T. Miko & Grace (Jea-Hyun) Park, Cong. Res. Service, <i>Trafficking in Women and Children: The U.S. and International Response</i> (2001), available at http://fpc.state.gov/documents/organization/9107.pdf	3
Susan. M. Nadon, Catherine Koverola & Eduard.H. Schludermann, <i>Antecedents to Prostitution: Childhood Victimization</i> , 13 <i>J. of Interpersonal Violence</i> 206 (1998).....	5

O.E.C.D., *Guidelines for Multinational Enterprises* (2008), available at http://www.oecd.org/document/28/0,3343,en_2649_34889_2397532_1_1_1_1,00.html..... 12

Ruth Parriott, Health Experiences of Twin Cities Women Used in Prostitution (May 1994) (unpublished manuscript, available at <http://www.angelfire.com/mn/fjc/healthex2.html>) 6

Posting of SkyDanzler to Associated Content, *United States Internet Sex Slaves: US Has Highest Demand for Internet Pornography*, http://www.associatedcontent.com/article/172291/united_states_internet_sex_slaves.html?cat=7 (Mar. 18, 2007) 4

Press Release, Dep't of Justice, District of Columbia Man Sentenced to 96 Months in Prison for Interstate Transportation of a Minor for the Purpose of Prostitution Defendant, Who Advertised on "Craigslis," Forced a 16-Year-Old Girl into Prostitution (July 7, 2008), available at <http://washingtondc.fbi.gov/dojpressrel/pressrel08/wf070708.htm> 9

Press Release, Dep't of Justice, Florida Man Arrested on Federal Sex Trafficking Charges for Prostituting Girl He Solicited on Internet (Apr. 15, 2009), available at <http://losangeles.fbi.gov/dojpressrel/pressrel09/la041509.htm> 9

Press Release, U.S. Dep't of Justice, More Than 1,200 Incidents of Human Trafficking Reported in the U.S. (Jan. 15, 2009), available at <http://www.ojp.usdoj.gov/bjs/pub/press/cshti08pr.htm>..... 3

Press Release, Dep't of Justice, Pimp Who Claimed To Be Modeling Agent Sentenced to Prison Reed Tricked Victim after Putting Her Photos on "Craigslis" (June 4, 2009), available at <http://atlanta.fbi.gov/dojpressrel/pressrel09/atl060409.htm>..... 8

Press Release, F.B.I., El Dorado Hills Man Arrested on Sex-Trafficking Charges (July 1, 2008), available at release <http://sacramento.fbi.gov/pressrel/pressrel08/sc070108.htm> 9

Press Release, U.N. Dep't of Pub. Info., *New Global Treaty to Combat Sex Slavery of Women and Girls* (Feb. 2000), available at <http://www.un.org/events/10thcongress/2098.htm>..... 11

Janice G. Raymond, Donna M. Hughes, & Carole J. Gomez, Coalition Against Trafficking in Women, *Sex Trafficking of Women in the United States: International and Domestic Trends* (2001), available at http://www.uri.edu/artscl/wms/hughes/sex_traff_us.pdf..... 7

Rucks Russell, *Warning to Parents: Sex Trade Predators Are Looking For Your Children*, KHOU-TV Houston Online, Apr. 10, 2009, http://www.khou.com/news/local/houstonmetro/stories/khou090410_mp_sex-trade-warning.c0e77435.html 4

Mimi H. Silbert & Ayala M. Pines, *Entrance into Prostitution*, 13 Youth & Soc'y 471 (1982) ... 5

Mimi H. Silbert & Ayala M. Pines, *Early Sexual Exploitation as an Influence in Prostitution*, 28 Social Work 285 (1983) 6

Athanassia P. Skyiotou, Council of Europe, *Trafficking in Human Beings: Internet Recruitment* (2007), available at http://www.coe.int/t/dg2/trafficking/campaign/Source/THB_Internetstudy_en.pdf 4

2 Special Committee on Pornography and Prostitution, *Pornography and Prostitution in Canada* (1985) 7

Brad Stone, *Revenue at Craigslis Is Said To Top \$100 Million*, N.Y. Times, June 9, 2009, available at <http://www.nytimes.com/2009/06/10/technology/internet/10craig.html?ref=business> 11

U.N. Committee on the Elimination of Discrimination Against Women, *Violence Against Women*, General Recommendation No. 19 (11th Session, 1992), *available at* <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom19> 5

Trafficking in Persons Report, 2007 U.S. Dep’t of State Ann. Rep., *available at* <http://www.state.gov/documents/organization/82902.pdf> 3, 4

Trafficking in Persons Report, 2008 U.S. Dep’t of State Ann. Rep., *available at* <http://www.state.gov/documents/organization/105501.pdf> 3

Trafficking in Persons Report, 2009 U.S. Dep’t of State Ann. Rep., *available at* <http://www.state.gov/documents/organization/123357.pdf> 2

U.N. Population Fund, *Chapter 3: Ending Violence Against Women and Girls, in The State of World Population 2000*, *available at* <http://www.unfpa.org/swp/2000/pdf/english/ch03.html>.
..... 3

Ine Vanwesenbeeck, *Prostitutes’ Well-Being and Risk* (1994)..... 6

Cathy Spatz Widom, *Victims of Childhood Sexual Abuse – Later Criminal Consequences*, National Institute of Justice (2005) 6

I. INTEREST OF AMICUS CURIAE

The Coalition Against Trafficking in Women (“CATW”), founded in 1988, works to end sex trafficking, and all forms of commercial sexual exploitation, in legal, media, educational, and other forums, focusing in recent years on the demand for commercial sex. CATW has contributed its expertise to enacting strong anti-trafficking legislation at the state level in New York, at the national level in the Philippines, Venezuela, Bangladesh, Japan, Sweden and the United States, and at the international level, including the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, G.A. Res. 55/25, U.N. Doc. A/RES/55/25 (Nov. 15, 2000) (“Palermo Protocol”), which sets the world standard, and to which the United States is a party. U.S. Dep’t of State, *Treaties in Force: A List of Treaties and Other International Agreements of the United States in Force on January 1, 2009* 419–420 (2009).

CATW opposes sex trafficking within the framework of international law, which recognizes that prostitution and trafficking are inextricably linked, that neither legally turns on nonconsent of the victim, and that trafficking is about exploitation by a third party, not movement across jurisdictional lines. The organization is guided by the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, *entered into force on July 25, 1951*, 96 U.N.T.S. 71, which provides that “prostitution and the accompanying evil of the traffic in persons for the purpose of prostitution are incompatible with the dignity and worth of the human person . . .” *id.* at preamble, regardless of whether the victim “consents,” *id.* at art. 1, or borders are crossed, *see generally id.* CATW’s work opposes trafficking as defined by the Palermo Protocol, *supra*, art. 3: “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include at minimum, the exploitation of the prostitution of others or other forms of sexual exploitation . . ., slavery or practices similar to slavery [.]”

CATW analyzes sex trafficking as a form of slavery, internationally defined as “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.” Slavery Convention art. 1, *entered into force on Mar. 9, 1927*, *entered into force*

for the U.S. on Mar. 21, 1929, Sept. 25, 1926, 46 Stat. 2183, 60 L.N.T.S. 253. Slavery is universally prohibited as an obligation *erga omnes* under international law. *Barcelona Traction, Light and Power Co. (Belg. v. Spain)*, 1970 I.C.J. 3, 32 (Feb. 5); see *Tel-Oren v. Libyan Arab Republic*, 726 F.2d 774, 781 (D.C. Cir. 1984) (Edwards, J., concurring). CATW seeks implementation of Palermo Protocol's Article 3, making "[t]he consent of a victim of trafficking in persons to the intended exploitation . . . irrelevant where any of the means" listed in Article 3, *supra*, are used. Per the Protocol, CATW also advocates, organizes, and litigates for governments to prevent and punish the demand for prostitution, and to ensure that traffickers are prosecuted. See arts. 5, 9.

CATW worked to pass, and aims to effectuate, the Trafficking Victims Protection Act of 2000 and its reauthorizations, which defines sex trafficking as "the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act." 22 U.S.C. § 7102(9) (2006). Passed with CATW's active participation, the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (named after the nineteenth century British leader of the movement to abolish the slave trade) criminalizes "knowingly benefit[ing], financially or by receiving anything of value, from participation in a venture which has engaged in the providing or obtaining of labor or services by any of the means described in subsection (a), knowing or in reckless disregard of the fact that the venture has" used such means. 18 U.S.C.S. § 1589(b) (2009);¹ see *Assessment of U.S. Government Activities to Combat Trafficking in Persons*, 2008 Att'y Gen. Ann. Rep. 4. The 2008 Act also provides a civil remedy for victims of these crimes. 18 U.S.C.S. § 1595(a) (2009). Despite international agreements and national legislation, people in the U.S. and abroad are increasingly channeled into prostitution as their opportunities for legitimate work shrink, see *Trafficking in Persons Report*, 2009 U.S. Dep't of State Ann. Rep. 34, making CATW's activities even more urgent.

In the context of its opposition to sex trafficking as exploitation mostly of women and children, CATW opposes advertising for prostitution, apart from its role in crime, because it stimulates, facilitates, normalizes, and generates profits from sex trafficking, a vicious human rights violation. Prioritizing preventing sex trafficking, CATW opposes facilitating anonymous

¹ Subsection (a) criminalizes means including force, serious harm, threats of either, abuse or threatened abuse of law, or "any scheme, plan, or pattern intended to cause the person to believe that" if the acts were not performed, someone would suffer "serious harm or physical restraint." 18. U.S.C. § 1589 (a). Such acts are standard practices of pimps and traffickers.

contact between persons seeking to have commercial sex with prostituted people (“johns”) and their traffickers (“pimps” or “traffickers”), as well as the mainstreaming and legitimization of prostitution through advertising.

II. ARGUMENT OF AMICUS CURIAE

Sex trafficking is prevalent in the United States, worldwide, and is growing, fed by the internet, see *Trafficking in Persons Report*, 2007 U.S. Dep’t of State Ann. Rep. 35; Francis T. Miko & Grace (Jea-Hyun) Park, Cong. Res. Service, *Trafficking in Women and Children: The U.S. and International Response 1-7* (2001). The end point of sex trafficking is a range of commercial sexual exploitation, especially prostitution. Whether the resulting acts take place on a street corner, in a brothel, in a home, or by live feed, the damage to those used in the sex industry is the same, and it is severe. Craigslist, by offering ad space for “adult services” and “erotic services” is openly stimulating and facilitating this traffic, hence exacerbating this damage. By taking money for the ads, it is profiting from it.

1. SEX TRAFFICKING IS PREVALENT, MADE MORE SO BY THE INTERNET, INCLUDING ITS ADVERTISING FOR PROSTITUTED SEX.

Although sex trafficking operates under a veil of secrecy, making accurate figures hard to get, the Human Trafficking Reporting System of the United States Department of Justice (“DOJ”) recorded more than 1,200 alleged incidents of human trafficking from January 30, 2007 to September 30, 2008. Of these, “[m]ost (83 percent) . . . involved allegations of sex trafficking . . . [a]bout a third . . . involved sex trafficking of children.” Press Release, DOJ, *More Than 1,200 Incidents of Human Trafficking Reported in the U.S.* (Jan. 15, 2009). Given the secrecy and violence of traffickers, and the shame and fear their victims feel, CATW’s experience strongly suggests that the real figures are likely higher.

Wherever the sex industry thrives, children are prostituted. More than two million children are exploited in the global sex trade. *Trafficking in Persons Report*, 2008 U.S. Dep’t of State Ann. Rep. 14, 24. By conservative estimate, two million more girls aged five to fifteen are brought into the commercial sex industry each year, U.N. Population Fund, *Chapter 3: Ending Violence Against Women and Girls, in The State of World Population 2000* 26 (2000), for the users who often prefer young girls and will pay more for them. Children are easy for pimps and johns to control. According to the Las Vegas Metropolitan Police, trafficking of eleven to seventeen year old girls there from other states for prostitution is “rampant.” Melissa Farley,

Prostitution & Trafficking in Nevada: Making the Connections 105 (2007) (internal quotation omitted). The internet has also increased child sex tourism worldwide, *see* U.S. Dep't of State, Trafficking in Persons Report, 23 (2007), *see also* Child Exploitation and Obscenity Section, DOJ, *Child Sex Tourism* (last visited July 28, 2009), playing a key role in the sexual exploitation of women and children, the line between whom is a birthday. Many prostituted children grow up to be prostituted adults. *See infra* Section 2.

The internet has internationalized the prostitution business as never before: "Sex tourism and child pornography have become worldwide industries, facilitated by technologies such as the Internet, which vastly expand the choices available to pedophiles and permit instant and nearly undetectable transactions." *Trafficking in Persons Report*, 2007 U.S. Dep't of State Ann. Rep. 35. Its harm has expanded accordingly, as the internet has normalized and globalized sexual exploitation. Specifically, the internet has made it easier for johns and pimps to identify and access each other as well as victims. *See* Donna M. Hughes, *The Internet and Sex Industries: Partners in Global Sexual Exploitation*, *Technology & Society Mag.*, Spring 2000, at 35, 37, 38, 41. By providing a method of routing communications through numerous countries, the internet also allows the actions of traffickers and pimps to remain undetected so that "national recruitment networks" can flourish. Athanassia P. Skyiotou, Council of Europe, *Trafficking in Human Beings: Internet Recruitment* 26, 29 (2007).

As the internet makes prostitution easier, it attenuates the physical contact between pimp and john, making it easier to ignore the brutality it takes to make a prostituted woman or child available for the sexual encounter.² "Prior to the internet, human traffickers had to travel within the United States or abroad to secure purchasing of females for sex slavery. However, with the growth of the internet, human trafficking is now being conducted via telephone and satellite transmissions." Posting of SkyDanzer to Associated Content, *United States Internet Sex Slaves: US Has Highest Demand for Internet Pornography* (Mar. 18, 2007). Police Detective Woolley of Riverside County, California, who has made several arrests through craigslist's advertisements, finds that these pimps are typically gang members who trade in women as they would drugs. Jessica Logan, *Internet Replacing Streetwalking for Inland Prostitution*, *Press Enterprise*, Jan. 1,

² Make no mistake, being trafficked through ads on the internet is being trafficked. *See* U.S. Department of State, Trafficking in Persons Report 13 (2008) (documenting trafficking of 17-year-old Rosita); Rucks Russell, *Warning to Parents: Sex Trade Predators Are Looking For Your Children*, KHOU-TV Houston Online, Apr. 10, 2009 (documenting case of Miley).

2008. The secrecy, anonymity, and ephemeral character of the internet all make sex trafficking easier – giving johns the chance to do some things that they otherwise might not have done – and even harder to combat.

Just as open and global advertising made Las Vegas “a destination for prostitution tourists, a city to which women from all over the US and the world are trafficked,” Farley, *Nevada, supra*, at 145, craigslist and other internet prostitution advertisers are fast replacing more traditional means of procuring prostituted sex. See Logan, *supra*. In Detective Woolley’s words, “[i]n this age, Internet prostitution is the biggest thing going.” *Id.*

2. PROSTITUTION IS DAMAGING AND NOT USUALLY FREELY CHOSEN.

While it is universally accepted that sex trafficking is a horrific violation of human rights, prostitution is often dismissed as the world’s oldest profession, benign and inevitable. To the contrary, CATW submits, prostitution is the world’s oldest oppression, one that “endanger[s] the welfare of the individual, the family and the community...” 1949 Convention, *supra*, at preamble. Prostitution is increasingly recognized as a form of violence against women that deprives prostituted people of human dignity through cruel, degrading, discriminatory, and traumatic acts. See U.N. Committee on the Elimination of Discrimination Against Women, *Violence Against Women*, General Recommendation No. 19, ¶¶ 1, 4, 6, 7, 10, 12-16, 24 (11th Session, 1992) (recognizing prostitution as a practice of discrimination against women under the Convention Against All Forms of Discrimination Against Women); see Catharine A. MacKinnon, *Prostitution and Civil Rights*, 1 Mich. J. Gender & L. 13 (1993).

Despite this, the view that women enter prostitution freely and choose to remain is widely promulgated against the evidence that the vast majority enter under conditions of lack of choice and stay but want to leave. In most instances, people in prostitution are socially vulnerable due to sexual abuse in childhood, race and sex inequality, drug addiction, and poverty. Pimps and traffickers routinely resort to force, fraud, coercion, and other forms of pressure and manipulation.

Most women in prostitution enter as children. Young women and children report being sold into prostitution as sex slaves in the United States for the profit of others. Farley, *Nevada, supra*, 75, 76, 107. Mimi H. Silbert & Ayala M. Pines, *Entrance into Prostitution*, 13 Youth & Soc’y 471, 483 (1982) find 78% of adult women in prostitution began prostituting as juveniles, 62% younger than 16. Susan M. Nadon et al., *Antecedents to Prostitution: Childhood*

Victimization, 13 J. of Interpersonal Violence 206, 213 (1998) find 89% of women in prostitution began before age 16. Debra Boyer et al., Nw. Res. Assoc., *Survival Sex in King County: Helping Women Out* 3 (1993) find almost 94% of women surveyed who were prostituted in escort, street, strip club, phone sex, and massage parlors in Seattle began being prostituted between the ages of 12 and 14. Minority is not a time when a fully free and informed choice, particularly in sexual matters, can be made, and the risk of exploitation by adults is high. When prostituted, a child by definition is being sexually abused.

Sexual abuse in childhood commonly precedes entry into prostitution. Eighty two of 100 women prostituting in Vancouver recently reported prior childhood sexual abuse. Melissa Farley et al., *Prostitution in Vancouver: Violence and the Colonization of First Nations Women*, 42 *Transcultural Psychiatry* 242, 253, 255, (2005). Many adult women in prostitution attribute their entry into prostitution to sexual abuse in childhood. Mimi H. Silbert & Ayala. M. Pines, *Early Sexual Exploitation as an Influence in Prostitution*, 28 *Social Work* 285, 286 (1983) (documenting 70%). Women who report being sexually assaulted in childhood are 27.7 times more likely to be arrested for prostitution than women who were not. Cathy Spatz Widom, *Victims of Childhood Sexual Abuse – Later Criminal Consequences*, National Institute of Justice Research in Brief 5, 7 (Mar. 1995). Prior sexual abuse prepares for later exploitation, not for freedom.

Prostitution is violent. Apart from routine sexual use, women in prostitution are routinely physically assaulted, including rapes and beatings. In transnational research on prostitution including in the United States, seventy one percent of 854 prostituted people had been physically assaulted in prostitution; 63% said they had been raped. Melissa Farley et al., *Prostitution and Trafficking in Nine Countries: An Update on Violence and Posttraumatic Stress Disorder*, J. of Trauma Practice 2004, at 33, 34, 44. Even where prostitution is legal, women still are physically assaulted in it. Ine Vanwesenbeeck, *Prostitutes' Well-Being and Risk* 91 (1994) (finding 60% of prostituted women in the Netherlands suffered physical assault in it). A study in Portland, Oregon found that prostituted women were raped once a week on average. Susan Kay Hunter, *Prostitution is Cruelty and Abuse to Women and Children*, 1 *Mich. J. Gender & L.* 91, 92 (1993). Eighty-five percent of women in Minneapolis reported rape in prostitution. Ruth Parriott, *Health Experience of Twin Cities Women Used in Prostitution* (May 1994) (unpublished manuscript). Lack of negotiating power, and the insistence of johns on not using condoms, exposes women in

prostitution to heightened risk of HIV/AIDS and other sexually transmitted diseases. *See* Janice G. Raymond et al., Coalition Against Trafficking in Women, *Sex Trafficking of Women in the United States: International and Domestic Trends* 11, 72, 73, 81, 82 (2001). In CATW's experience and that of survivor groups, the price of resistance is often more violence. *Id.* at 11, 72, and 73. *See generally* Coalition Against Trafficking in Women, et al., *Statement Submitted to the United Nations Economic and Social Council's Commission on the Status of Women* esp. 2, 3 (2009). The trauma of prostitution across cultures and settings produces post traumatic stress, a painful and dangerous condition, in 68% of those in prostitution in nine countries at a level equivalent to that of men in combat or rape victims. Farley et al., *Nine Countries, supra*, at 34, 47, 56. It is unsurprising that prostituted women in Canada face risk of premature death at forty times the Canadian national average. 2 Report of the Special Committee on Pornography and Prostitution, *Pornography and Prostitution in Canada* 350 (1985).

Most women in prostitution say that what they most want is to leave. Farley et al., *Nine Countries, supra*, at 34, 51, 56 (finding 89%). CATW's work suggests that this figure would be higher if the women did not understandably fear reprisals. Stigma blocks their exit, as do other daunting barriers: no place to live (particularly with HIV or other disease), disabling mental disorders, drug and alcohol addiction (to get through the day), lack of education and job skills, frequently an arrest record. Farley, *Nevada, supra*, at 159, 165, 167, 168, 170. The impact of prostitution on women and children is devastating and long lasting, including severe emotional and psychological dissociation (a mental survival strategy), which undermines law enforcement where the injuries are most extreme. E.U. & International Organization for Migration, *A Guide for Members of Law Enforcement, Judiciary, and NGOs/IOs on Best Practices in Combating Trafficking in Persons* ¶ 2.6.4 (2003). For this damage to be inflicted, what matters is that a woman or child is being sold for sex, not the distance moved or the means of intermediation. Farley, *Nevada, supra*, at 198. None of this harm – from impelled entry to abuse within to blocked exit – is chosen.

3. WOMEN AND CHILDREN ARE TRAFFICKED FOR PROSTITUTION THROUGH CRAIGSLIST, WHICH PROFITS.

Defendant craigslist is a global advertisement business. Its “adult services” website – titled to clearly communicate sex for sale – consists of advertisements for prostitution of women and children. These websites provide easy access for millions of pimps trafficking women and

children for sex to johns seeking them, or to other pimps seeking to buy them to sell. By creating a special place for those seeking to buy and sell prostituted sex, craigslist has dedicated a portion of its website to johns and pimps. This controlled space provides an extraordinary opportunity for coordinating domestic and transnational sex trafficking. To use these websites for prostitution is not to abuse them. It is what they are largely being used for.

For each “adult services” advertisement, craigslist charges a ten dollar fee. In Chicago alone on July 9, 2009, over three hundred such advertisements were posted. Craigslist Chicago adult services website (last visited July 9, 2009). Craigslist benefits financially from the advertisements on its website, profiting from an integral role in sex trafficking, taking a pimp’s cut.

While continuing more blatantly to traffic women from abroad by leaving its international list termed “erotic services,” *see, e.g.*, craigslist Vietnam erotic services website (last visited July 27, 2009), craigslist changed nothing of substance by re-labeling its domestic prostitution advertisements “adult services,” or by adding a meaningless disclaimer with a universally accessible button to click. While some of the most explicitly pornographic photos have been removed in light of pending litigation, the basic content is unchanged. “Adult services” still offers prostituted sex, and is more readily accessed from workplaces, for example, than “erotic services” was. The pictures in the advertisements for craigslist “adult services” are slightly less explicit than those in the international “erotic services” section – clearly craigslist can manage this, despite its protestations to the contrary – yet they still clearly advertise prostitution, with titles such as, “AMAZING BUSTY ASIAN KOREAN GIRL JUST ARRIVE,” craigslist Chicago adult services website (last visited July 9, 2009), and “BUSTY KOREAN GIRLS *~ NEW STAFF~,” craigslist New York adult services website (last visited July 17, 2009).

As United States Attorney David E. Nahmias notes, “[t]he use of internet websites like ‘Craigslist’ to facilitate the sexual exploitation of vulnerable young women is a growing problem.” Press Release, DOJ, Pimp Who Claimed To Be Modeling Agent Sentenced to Prison Reed Tricked Victim after Putting Her Photos on “Craigslist” (June 4, 2009). In one typical case, Anthony Thomas, 35, of Mansfield, Texas, was sentenced on June 4, 2009, to 6 years in prison for interstate transport for prostitution through persuasion, inducement, enticement, and coercion. The FBI investigation of Thomas began with information in an “erotic services” posting on

craigslist in the Atlanta, Georgia, area in an ad for a young woman later identified as the victim. *Id.*³ The FBI documents numerous incidents of women and children being prostituted through craigslist; in 2008 alone, it discovered 2,800 advertisements for child prostitution there. See Abbie Alford, *Online Sex For Sale*, Fox23.com, Apr. 2, 2009. A police detective from San Bernardino County, California, reported that in one weekend in December 2007, 700 people advertised in craigslist's "erotic services" category. See Logan, *supra*.

Members of Congress have demanded that craigslist take steps to prevent its website from facilitating violence against women and children. See Letter from Carolyn Maloney, et al., Members of Cong., U.S. House of Representatives to Craig Newmark, Founder, craigslist, and James Buckmaster, Chief Executive Officer, craigslist (June 10, 2009). However, ads for prostitution on craigslist, far from being screened out, remain readily available. Craigslist Alaska adult services website (last visited June 5, 2009), has Tanya on the move:

Visiting Fairbanks June 6th thru June 13th, Visiting Anchorage June 13th thru July 21st. I am driving, so I'm also available to stop anywhere inbetween.

I have alot of experience as a upscale quality service provider. I'm a gorgeous blonde, with faboulous playmate looks & style. 5'4 /34B I accept Visa/MC, you may email me.

"High class and upscale adult services," craigslist Chicago adult services website (last visited July 9, 2009), states that in addition to erotic massage and role playing, "By the way, I will be more than welcomed to accompany you anywhere in the United States, and I will be dressed for the occassion so that you can get an exquisite escortee." When a user clicks on an ad for "Avail Latina 24/7" one reads, in part, "My name is Serrenna, I travel to all of Chicago and all suburbs of IL and Northwest Indiana . . . Please be a gentlemen when contacting me thank you. Serrenna ~ 773 494 9805 (At this current time, I do not host. Out calls only.)" *Id.*

It is probable that these women and children are being trafficked for prostitution, itself a crime, also in violation inter alia of the Mann Act, 18 U.S.C. §§ 2421-2424 (2000), which prohibits transport across state lines for purposes of prostitution. These ads could also be from

³ For more examples, see Press Release, Dep't of Justice, District of Columbia Man Sentenced to 96 Months in Prison for Interstate Transportation of a Minor for the Purpose of Prostitution Defendant, Who Advertised on "Craigslist," Forced a 16-Year-Old Girl Into Prostitution (July 7, 2008); Press Release, F.B.I., El Dorado Hills Man Arrested on Sex-Trafficking Charges (July 1, 2008); Press Release, Dep't of Justice, Florida Man Arrested on Federal Sex Trafficking Charges for Prostituting Girl He Solicited on Internet (Apr. 15, 2009).

one pimp to others. Arrests for the sex trafficking of minors through craigslist suggests that this is not speculation. Plainly, craigslist's prostitution advertisements allow the sex trafficking industry to thrive, and craigslist in return to become more profitable.

Any doubt that craigslist still facilitates international trafficking is resolved by posts in craigslist's "erotic services" category in Indonesia, Panama, and Vietnam:

The Trip You Always Wanted To Vietnam - w4m (Vietnam)

Reply to: pers-8ueej-1206316934@craigslist.org Date: 2009-06-05, 5:20PM ICT

Vietnam travel in your future plans? Change the way you plan your travel. This trip stop dreaming and wishing and start making your dreams come true. It is time to check it out for your self. See and taste and feel what everyone is talking about. All of it is true everything you have read and heard about the Asian sex scene is true only it is way, way better. Whether you are traveling to Thailand, China, Korea or Japan and points in between I can help you. I offer an information service that gives you the knowledge to arrive here and not waste any time or money wondering where to go, what to do or how much to pay. This trip spend your time having fun and all the sex you want. This trip leave prepared and know before you leave where you are going, what you are doing and how much you are paying. Save your self time and money and worry and leave prepared. This trip do the work upfront and then have as much sex as you want when you want it. Location: Vietnam

Craigslist Vietnam erotic services website (last visited July 27, 2009). With substitutions appropriate for Latin America, the identical ad offers women in Panama. "For The Trip You Always Wanted To Panama - w4m (Panama)", craigslist Panama erotic services website (last visited June 6, 2005). Trafficking has also soared because of the growth of sex tourism, an industry blatantly advertised through craigslist, as in these examples.

In craigslist's ads for "erotic services" in Indonesia, one finds "Western man and regular visitor seeking young asian girl for fun or more. send pics and detail if interested. Location: Grand Hyatt Bali." Craigslist Indonesia erotic services website (last visited June 7, 2009). Such ads aimed at businessmen and tourists looking for women and children for sex in developing countries, in CATW's expert experience, often enable traffickers to sell them over the internet. This "Western man" will likely receive a message from an Indonesian pimp, or perhaps he is a pimp himself looking to trade in young Asian girls. The "young asian girl" sold to him through this site could become the "exotic Asian girl" on craigslist in New York or Las Vegas. Sex

traffickers receive huge sums for their victims. Prostituted Asian women and girls in the United States and Japan may be sold for up to \$20,000 each. Press Release, U.N. Dep't of Pub. Info., *New Global Treaty to Combat Sex Slavery of Women and Girls* (Feb. 2000).

Beyond concretely linking the parties for prostituted sex, both these domestic and foreign sections of craigslist support sex trafficking by giving these ads a mainstream ambience, making buying a person for sex like buying a used truck or locating a personal trainer. Craigslist achieves this aura by strategic deployment of euphemism. According to craigslist, “[o]ne of the subcategories of the “services” section of the craigslist website is titled “erotic.” . . . craigslist introduced this subcategory several years ago at the request of users, so that legal escort services, massage workers, exotic dancers and others whose ads often contain adult content . . . would have a dedicated area in which to post their ads.” (Mem. Supp. craigslist’s Mot. J. Pleadings 4.) The figleaf “adult services,” as is well known, means nothing but sex for sale, nor is it limited to sale of adults. As johns are invited to hide behind euphemistic normalcy, craigslist hides behind euphemistic neutrality, although it likely does not enable the sale of kidneys or cocaine behind a thin advertising veil.

Craigslist is not publicly traded, and does not release information on its profits, but financial news analysts observe that the company that “is indifferent to money . . . [it] gushes profits.” Craigslist is “burning up the market” in classified advertisement. Adam Lashinsky, *Burning Sensation*, CNN Money.com, Dec. 12, 2005. A recent article in the New York Times that estimated craigslist’s profits to be over 100 million did not mention how much came from its “adult” and “erotic services.” Brad Stone, *Revenue at Craigslist Is Said To Top \$100 Million*, N.Y. Times, June 9, 2009. The AIM Group report on which this article was based projected craigslist’s revenues from “erotic” and “adult services” combined for one month only at over five million dollars, an estimate described as conservative. AIM Group, *Craigslist Tops \$100 Million Revenue*, 10(11) Classified Intelligence Report 1, 1 (2009). Projected over a year, it is fair to estimate that craigslist’s global revenues from its adult/erotic services ads could provide over half of its profits. Craigslist claimed that net proceeds from its “erotic services” section would be donated to charity. (Mem. Supp. craigslist’s Mot. J. Pleadings 3 n.1.) However, since posting the newly revised “adult services” section in the United States, Jim Buckmaster has said that “[w]e are making no representation regarding how revenue from the “adult services” category will be used.” Jenni Abelson, *Craigslist Changes Get Early Approval, But Advocates Wait To See If Ads*

Make A Return, Boston Globe, June 2, 2009. Which charities would accept profits of sexual exploitation were never specified.

Craigslist is powerful. With that power comes responsibility. Beyond the obligations of domestic and international law, craigslist has a corporate social responsibility to stop the sex trafficking and prostitution that occurs every day by way of its site. Multinationals should “respect the human rights of those affected by their activities consistent with the host government’s international obligations and commitments.” O.E.C.D., *Guidelines for Multinational Enterprises* 14 (2008). By eliminating its ads for prostitution, craigslist could go a long way to setting an industry standard toward a human-trafficking free internet.

By providing an anonymous forum for johns to contact pimps, and pimps to contact each other, craigslist is facilitating brutal abuses of human rights that deprive women and children of dignity and humanity, mocking the clear prohibitions against sex trafficking of United States and international law, profiting from a contemporary form of slavery. Craigslist can and should eliminate its “adult services” and “erotic services” sections as well as effectively screen its personals ads for sex trafficking for prostitution. As long as it continues to profit from sexual exploitation by functioning as an online pimp, craigslist remains actively complicit in that exploitation. Craig Newmark observed of his business, “[w]e’re just motivated by the same values we all learn in Sunday school or the equivalent . . . The Golden Rule and that it’s more important to help people.” *Quoted in Lashinsky, supra*. Stopping craigslist’s facilitation of human trafficking would align his business with his words.

III. CONCLUSION

For these reasons, the Court should deny defendant craigslist’s motion for judgment on the pleadings.

Dated: August 6, 2009

New York, New York

Norma Ramos, Esq.
Coalition Against Trafficking in Women
NRamos@catwinternational.org
(212) 643-9895

Catharine A. MacKinnon
camtwo@umich.edu

Respectfully submitted,

/s/ Alexander A. Yanos
Alexander A. Yanos
alex.yanos@freshfields.com
Ruth Teitelbaum
ruth.teitelbaum@freshfields.com
(212) 277-4000

(734) 647-3595

This *amicus curiae* brief has been endorsed by the following:

Rachel Durchslag,
Executive Director,
Chicago Alliance Against
Sexual Exploitation

Frank N. Barnaba,
President
The Barnaba Institute

Gloria Steinem

John Miller, Fmr. United
States Ambassador at
Large on Modern Day
Slavery, Visiting Scholar
University of California,
Berkeley

Taina Bien-Aime,
Executive Director,
Equality Now

Rachel Lloyd, Executive
Director, Girls Educational
& Mentoring Services
(GEMS)

Teresa C. Ulloa Ziaurriz,
Regional Director
Coalition Against
Trafficking in Women and
Girls in Latin America and
the Caribbean (CATW-
LAC)

Annie Fukushima, Founder
& Director, Students &
Artists Fighting to End
Human Slavery

Victor Malarek, Author
*The Johns and The
Natashas*

Ambassador Swanee Hunt,
President, Hunt
Alternatives Fund

Ambassador Robert
Gelbard, Washington
Global Partners

Agnes Gund,
Philanthropist

Jenny Rivera, Professor of
Law, Director, Center on
Latino and Latina Rights
and Equality, City
University of New York
School of Law

Melissa Farley, Ph.D.,
Executive Director
Prostitution Research &
Education (PRE)

Sonia Ossorio, President
NOW-NYC

Allen Wilson & Francine
Braae
Co-Executive Directors
The SAGE Project, Inc.

Jonathan Tasini,
Executive Director, Labor
Research Association

Robin Morgan, Writer

Catherine Ferguson,
Coordinator, UNANIMA
International

Jose Alvarez, Herbert and
Rose Rubin Professor of
International Law, New
York University School of
Law

Victor Goode, Esq.,
Professor of Law, CUNY
Law School

Debra Boyer, Affiliate
Assistant Professor
Department of Women
Studies
University of Washington

Diane L. Rosenfeld
Lecturer on Law
Harvard Law School

Gail Dines, Professor of
Sociology and Women's
Studies, Chair of American
Studies, Wheelock College

Patricia Willis, Co-chair
Feminist Counsel
American Humanist Assn.

Michael Kimmel
Department of Sociology
SUNY at Stony Brook

Dr. Robert Jensen,
Professor
School of Journalism
University of Texas at
Austin

Robert Brannon, PhD, Co-
Founder, National
Organization for Men
Against Sexism (NOMAS)

Allison Briscoe-Smith,
PhD
Assistant Professor Of
Psychology, Pacific
Graduate School Of
Psychology

Laura J. Lederer, J.D.
Vice President, Global
Centurion Adjunct
Professor, Georgetown
Law Center
Former Senior Advisor on
Human Trafficking to
Under Secretary for Global
Affairs, U.S. Department
of State

Kathleen Barry Ph.D.,
Professor Emerita, Author,
Female Sexual Slavery and
*The Prostitution of
Sexuality*

Vanessa Kelly, PsyD,
Associate Clinical
Professor, University of
California/San Francisco
General Hospital Trauma
Recovery Center

Rebecca Whisnant,
Associate Professor of
Philosophy, Director of
Women's and Gender
Studies, University of
Dayton; Co-founder and
Board Member, Stop Porn
Culture

Kathy Maskell, U.S.
Advocacy Director,
Love146

M, Liliane Kohl and
Denise Grossman, Chairs,
The Temple Committee
Against Human
Trafficking Montreal

William J. Livermore,
Executive Director
Somaly Mam Foundation

Michael Cory Davis,
Founder/Filmmaker
The Journey Film Group,
Inc.

R. Lindsey Parsons, EdD,
Manager, Finance and
Human Resources at
Tower Wealth
Management, Tallahassee,
FL

Emily Fitchpatrick,
Founder President, On
Eagles Wings Ministries &
Hope House Project,
Asheville, NC

Dr. Glenda Hope, Founder
and Executive Director,
San Francisco Safe House
for Women Leaving
Prostitution (affiliation for
identification purposes
only)

Helen Sworn, Executive
Director, Chab Dai
Coalition
Cambodia

Tania DoCarmo
Executive Director
Chab Dai USA, Inc.
Sacramento, California

Lacie Morrison
Freedom Initiative
Seattle, Washington

Linda Caswell, Founder
Hadassah House
Oklahoma City, Oklahoma

Cindy Wilkins, President
Groups On Tour, LLC

Matthew Dorozenski, Co-
Founder & Institutional
Member, End Internet
Trafficking Coalition
(EITC)

Jimmie Briggs, Journalist
& Author, *Innocents Lost:
When Child Soldiers Go to
War*

Ann J. Simonton, Director
& Founder, Media Watch

Anthony J. Marsella,
Ph.D., Emeritus Professor
Department of Psychology,
University of Hawaii
Honolulu, Hawaii 96820

Chong N. Kim, Survivor-
Educator for awareness on
trafficking exploitation
USA

Lydia Cacho, Writer &
Journalist

Elaine Audet, Author &
Editor
Micheline Carrier, Author
& Editor, Feminist
website, *Sisyphé*

Nancy M. Sidun, Psy.D.,
Abpp, ATR; Chair: APA
Task Force on Human
Trafficking

Betsy Salkind, Executive
Director, Children's Civil
Rights Union

Marie De Santis, Executive
Director, Women's Justice
Center

Michael Shively, Ph.D.
Senior Associate Center on
Crime, Drugs, and Justice
Abt Associates Inc.

Kaethe Morris Hoffer,
Legal Director
Justice Project Against
Sexual Harm
Chicago Alliance Against
Sexual Exploitation

Jeffrey Moussaieff
Masson, Author: *The
Assault on Truth*

NGO Office at the UN of
the Sisters of Notre Dame
de Namur

Meredith Ralston, PhD,
Filmmaker and Women's
Studies professor

Ambassador Mark P.
Lagon, Ph.D.
Executive Director and
CEO, Polaris Project

Winifred Doherty, RGS,
NGO Representative to the
UN, Congregation of Our
Lady of Charity of the
Good Shepherd

Catherine J. Douglass
Executive Director,
inMotion, Inc.

Dr. Dana Raphael, Ph.D

Rev. Janet Lee Kraft,
M.A., Ed.