IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

SNAP INC., META PLATFORMS, INC., Petitioners, vs. SAN DIEGO COUNTY SUPERIOR COURT, Respondent, ADRIAN PINA, *et al.*, Real Parties in Interest.	No. S286267 Court of Appeal 4th Dist., 1st Div. No. D083446, No. D083475 Superior Court Dept. SD-21 No. SCN429787 Hon. Daniel F. Link

JOINT APPLICATION OF THE CALIFORNIA ATTORNEYS FOR CRIMINAL JUSTICE, THE CALIFORNIA PUBLIC DEFENDER ASSOCIATION, THE NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS, THE NEW YORK LEGAL AID SOCIETY, THE INNOCENCE PROJECT, INC., THE NEW YORK COUNTY DEFENDER SERVICES, THE FEDERAL DEFENDERS OFFICE FOR THE EASTERN DISTRICT OF CALIFORNIA, THE DALLAS COUNTY PUBLIC DEFENDER'S OFFICE, AND THE SALT LAKE LEGAL DEFENDER ASSOCIATION TO APPEAR AS *AMICUS CURIAE* ON BEHALF OF REAL PARTY IN INTEREST PINA PURSUANT TO CALIFORNIA RULE OF COURT, RULE 8.520 (f), AND BRIEF IN SUPPORT OF REAL PARTY IN INTEREST PINA.

DONALD E. LANDIS, JR.
(CBN 149006)
Law Office of Donald E. Landis, Jr.
P.O. Box 221278
Carmel, CA 93922
831-298-0619
Don@donlandislaw.com

JOHN T. PHILIPSBORN
(CBN 83944)
CACJ *Amicus* Chair
Law Offices of J.T. Philipsborn
Civic Center Building
740 Noe Street
San Francisco, CA 94102
(415) 771-3801
Jphilipsbo@aol.com

Attorneys for Amicus CACJ

KATHLEEN GUNERATNE
(CBN 250751)
Assistant Public Defender
Alameda Public Defenders Office
1401 Lakeside Drive, Suite 400
Oakland, CA 94612-4305
510-272-6600
Kathleen.Guneratne@acgov.org

Attorney for Amicus CPDA

MARTIN ANTONIO SABELLI
(CBN 164772)
Law Offices of Martín Sabelli
507 Polk Street, Ste. 350
San Francisco, CA 94114-2923
(415) 298-8435
msabelli@sabellilaw.com

Attorney for Amicus NACDL

JEROME D. GRECO
(NYSB 5034525)
The Legal Aid Society
49 Thomas Street
New York, NY 10013
(212) 298-3075
Jgreco@legal-aid.org

Attorney for Amicus LAS

TANIA BRIEF
(NYSB 4339271)
Innocence Project, Inc
40 Worth St., Suite 701
New York, NY 10013
(212) 364-5974
tbrief@innocenceproject.org

Attorney for Amicus the Innocence Project, Inc.

STAN GERMAN
(NYSB 2733194)
Executive Director
New York County Defender Services
100 William Street, 20th Floor
New York, NY 10038
(212) 803-5100
sgerman@nycds.org

Attorney for Amicus NYCDS

HEATHER E. WILLIAMS
(CSB 122664)
Federal Public Defender
The Federal Defenders Office for the Eastern District of California
801 I Street, 3rd floor
Sacramento, CA 95814
916.498.5706, x 7234
Heather_Williams@fd.org

Attorney for Amicus FD-CAE

PAUL BLOCKER
(TSB 24009907)
Chief Public Defender - Interim
Dallas County Public Defender Office
133 N. Riverfront Blvd., LB-2
Dallas, Texas 75207
214-653-5234
Paul.Blocker@dallascounty.org

Attorney for Amicus DCPDO

RICHARD MAURO
(USB 5402)
The Salt Lake Legal Defender Association
275 East 200 South
Salt Lake City, UT 84111
801-532-5444
rmauro@sllda.com

Attorney for Amicus SLLDA

TABLE OF CONTENTS

Table of Authorities 5

Application for Amicus Curiae 9

I. JOINT APPLICATION OF *AMICI* TO APPEAR AS *AMICUS CURIAE* ON BEHALF OF REAL PARTY IN INTEREST PINA. 10

A. Identification of the California Attorneys for Criminal Justice. 10

B. Identification of the California Public Defender Association. 10

C. Identification of the National Association of Criminal Defense Lawyers. 11

D. Identification of the Innocence Project, Inc. 12

E. Identification of the New York Legal Aid Society. 12

F. Identification of the New York County Defender Services. 13

G. Identification of Federal Public Defender for the Eastern District of California. 13

H. Identification of the Dallas County Public Defender's Office. 14

I. Identification of the Salt Lake Legal Defenders Association. 15

J. Statement of Financial Interest of *Amicus Curiae*. . . . 15

K. Statement of Legal Interest of *Amicus Curiae*. 16

L. Application to File. 18

II. *AMICI*'S BRIEF ON THE MERITS. 18

A. Affirming the Decision below Is Necessary to Preserve Courts' Truth-seeking Function. 18

1. Social media evidence is increasingly essential to a meaningful defense. 19

a. Evidence of a third-party perpetrator. . . . 20

b. Evidence of witness bias. 24

c. Evidence of Self-Defense. 25

2. Judges are well-equipped to balance and protect privacy interests. they do it every day. 26

B. Affirming the Decision below Is Necessary Because People Accused of Crimes Are Rarely Able to Litigate Subpoenas Against Social Media Companies to a Conclusion. 30

CONCLUSION 32

Rule 8.204 (c)(1) Certification 34

Proof of Service 35

TABLE OF AUTHORITIES

Page

FEDERAL CASES

Carpenter v. United States (2018) 138 S. Ct. 2206 11

Chambers v. Mississippi (1973) 410 U.S. 284 17

Facebook, Inc. v. Pepe (D.C. 2020) 241 A.3d 248 25

In re Extradition of Ameen, No. 2:18-MJ-152-EFB (E.D. Cal. Aug. 20, 2018), ECF No. 14. 20-23

Pierce Cnty. v. Guillen (2003) 537 U.S. 129 26

Riley v. California (2014) 134 S. Ct. 2473 11

Stokwitz v. United States (9th Cir. 1987) 831 F.2d 893 28

Trump v. Vance (2020) 140 S.Ct. 2412 28

United States v. Barnes (9th Cir. 2018) 738 Fed.Appx. 413 19

United States v. Branson (11th Cir. 2019) 791 Fed.Appx. 33 19

United States v. Burr (C.C.D. Va. 1807) 25 F. Casualty 187 17, 25, 27

United States v. Denton (4th Cir. 2019) 944 F.3d 170 18

United States v. Farrad (6th Cir. 2018) 895 F.3d 859 19

United States v. Gonzalez-Barbosa (1st Cir. 2019) 920 F.3d 125. . 18

United States v. Johnson (7th Cir. 2019) 916 F.3d 579 19

United States v. Jones (2012) 132 S. Ct. 945 11

United States v. Madrid (5th Cir. 2017) 676 Fed.Appx. 309 18

United States v. Martin (E.D. Tenn. Dec. 23, 2008) No. 3:07-CR-51 28

United States v. Nixon (1974) 418 U.S. 683 . . . . . 18, 26, 25, 28

United States v. Pierce (2d Cir. 2015) 785 F.3d 832 18

United States v. Rembert (8th Cir. 2017) 851 F.3d 836 19

United States v. Stoner (3d Cir. 2019) 781 Fed.Appx. 81. 18

United States v. Torres (D.C. Cir. 2018) 894 F.3d 305 19

Washington v. Texas (1967) 388 U.S. 14 17

Young v. United States Department of Justice

(2d Cir. 1989) 882 F.2d 633 28

STATE CASES

Facebook, Incorporated., et al., v. San Diego County Superior Court (Hunter/Thomas) (2018) 4 Cal.5th 1245 . . . . . 15, 25, 26, 27, 32

Facebook, Incorporated., v. San Diego County Superior Court (Touchstone) (2020) 10 Cal.5th 329 . . . . . 15, 17, 33

Facebook, Inc. v. Superior Court (2020) 46 Cal.App.5th 109, review dismissed, remanded by *Facebook v. S.C.*, 270 Cal.Rptr.3d 45 (Mem),

. . . . . 23-25, 30

Facebook, Inc. and Twitter, Inc. v. Superior Court, Derrick D. Hunter, and Lee Sullivan, Supreme Court of the United States (2020) (No. 19-1006). 30, 31

In re Richards (2012) 55 Cal.4th 948 13

In re Richards (2016) 63 Cal.4th 291 13

People v. Lemcke (2021) 11 Cal.5th 644 11

People v. Sullivan and Hunter, Nos. 13235657 & 13035658 at ¶ 1 (Cal. Super. Ct. Jul. 26, 2019) 30

People v. Touchstone, No. CD268262 (San Diego Sup. Ct. May 12, 2021). 31

FEDERAL STATUTES

12 U.S.C. § 3401 28

12 U.S.C. § 3423 28

18 U.S.C. § 986 28

18 U.S.C. § 2701 17

18 U.S.C. § 2702 25

18 U.S.C. § 2703 22

18 U.S.C. § 3006 12

26 CFR § 301.7216 28

34 CFR 99.31 28

42 CFR 2.61 28

45 CFR 164.512 28

R. Crim. P. § 17 26

R. Crim. P. § 2211 29

STATE STATUTES

Cal. Health and Safety Code § 11488.1 28

Cal. Penal Code § 1334 18

Cal. Penal Code § 1334.6 18

Cal. Rules of Court, Rule 8.520 9

Cal. Rules of Prof' Conduct, Rule 1.6 24

Cal. Rules of Prof' Conduct, Rule 1.9 24

New York C.P.L. § 640.10 16

OTHER

Ethan Baron, *Facebook and Twitter in inexcusable contempt of court over refusal to hand over private messages in murder case*, Mercury News, Aug. 2, 2019 22

CACJ Bylaws, Article IV 9

Maura Dolan, *After that $5-billion fine, Facebook gets dinged again: $1,000 by judge overseeing murder trial*, Los Angeles Times (Jul. 26, 2019) 30

SLLDA Bylaws, Article II 14

Jeffrey D. Stein, *Why Evidence Exonerating the Wrongly Accused Can Stay Locked Up on Instagram*, Wash. Post, Sept. 10, 2019 . . . . . 19, 29

Matt Stevens & Gabe Cohn, *ISIS Member Arrested in Sacramento, U.S. Says*, N.Y. Times, Aug. 15, 2018 20

Sam Stanton, *After judge orders Iraqi man's release, agents whisked him to custody in Bakersfield*, Sac. Bee, Apr. 22, 2021 . . 23

Ben Taub, *The Fight to Save an Innocent Refugee from Almost Certain Death*, The New Yorker (Jan. 27, 2020) 30

Transparency, United States 18

John Henry Wigmore, *A Treatise on the System of Evidence in Trials at Common Law* at p. 2998 § 2211 (1904) 27

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

SNAP INC., META PLATFORMS, INC., Petitioners, vs. SAN DIEGO COUNTY SUPERIOR COURT, Respondent, ADRIAN PINA, *et al.*, Real Parties in Interest.	No. S286267 Court of Appeal 4th Dist., 1st Div. No. D083446, No. D083475 Superior Court Dept. SD-21 No. SCN429787 Hon. Daniel F. Link

JOINT APPLICATION OF THE CALIFORNIA ATTORNEYS FOR CRIMINAL JUSTICE, THE CALIFORNIA PUBLIC DEFENDER ASSOCIATION, THE NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS, THE NEW YORK LEGAL AID SOCIETY, THE INNOCENCE PROJECT, INC., THE NEW YORK COUNTY DEFENDER SERVICES, THE FEDERAL DEFENDERS OFFICE FOR THE EASTERN DISTRICT OF CALIFORNIA, THE DALLAS COUNTY PUBLIC DEFENDER'S OFFICE, AND THE SALT LAKE LEGAL DEFENDER ASSOCIATION TO APPEAR AS *AMICUS CURIAE* ON BEHALF OF REAL PARTY IN INTEREST PINA PURSUANT TO CALIFORNIA RULE OF COURT, RULE 8.520 (f), AND BRIEF IN SUPPORT OF REAL PARTY IN INTEREST PINA.

TO: THE HONORABLE PATRICIA GUERRERO, CHIEF JUSTICE PRESIDING, AND HONORABLE ASSOCIATE JUSTICES OF THE CALIFORNIA SUPREME COURT:

The California Attorneys for Criminal Justice, the California Public Defender Association, the National Association of Criminal Defense Lawyers, the New York Legal Aid Society, the Innocence Project, Inc., the New York County Defender Services, the Federal Defenders Office for the Eastern District of California, the Dallas County Public Defender's Office, and the Salt Lake Legal Defender Association apply under California Rules of Court, Rule 8.520 (f) for permission to appear as *amicus curiae* on behalf of Real Party in

Interest.

Under the California Rules of Court, Rule 8.520 (f), this brief may be filed by permission of the Presiding Justice of this Court based on a showing of good cause. *Amici* have filed this brief within 30 days of petitioners' Reply and respectfully tenders its showing of good cause below.

I. JOINT APPLICATION OF *AMICI* TO APPEAR AS *AMICUS CURIAE* ON BEHALF OF REAL PARTY IN INTEREST PINA.

A. Identification of the California Attorneys For Criminal Justice.

The California Attorneys for Criminal Justice (CACJ) is a nonprofit California corporation. According to Article IV of its bylaws, CACJ was formed to achieve certain objectives including "to defend the rights of persons as guaranteed by the United States Constitution, the Constitution of the State of California and other applicable law." CACJ is administered by a Board of Governors consisting of criminal defense lawyers practicing within the State of California. The organization has approximately 1,700 members, primarily criminal defense lawyers practicing before federal and state courts. These lawyers are employed throughout the State both in the public and private sectors.

CACJ has appeared before the United States Supreme Court, the California Supreme Court, and the California Courts of Appeal on issues of importance to its membership. CACJ's appearance as an *amicus curiae* before California's reviewing courts has long been recognized in a number of published decisions.

B. Identification of the California Public Defender Association.

The California Public Defender Association (CPDA) is a

nonprofit California Corporation. The organization has a membership of nearly 4,000 public defenders and attorneys in private practice. CPDA is an important voice of the criminal defense bar in California and nationally. CPDA and its legal representatives have the necessary experience, collective wisdom, and interest in matters of constitutional rights, discovery, evidence law and appellate writ review to serve this Court as an *amicus curiae* in this case.

CPDA has appeared before the United States Supreme Court, the California Supreme Court, and the California Courts of Appeal on issues of importance to its membership. CPDA's appearance as an *amicus curiae* before California's reviewing courts has long been recognized in a number of published decisions to numerous to mention here.

C. Identification of the National Association of Criminal Defense Lawyers.

The National Association of Criminal Defense Lawyers (NACDL) is a nonprofit voluntary professional bar association that works on behalf of criminal defense attorneys to ensure justice and due process for those accused of crime or misconduct. NACDL was founded in 1958. It has a nationwide membership of many thousands of direct members, and up to 40,000 with affiliates. NACDL's members include private criminal defense lawyers, public defenders, military defense counsel, law professors, and judges.

NACDL is the only nationwide professional bar association for public defenders and private criminal defense lawyers. NACDL is dedicated to advancing the proper, efficient, and just administration of justice. NACDL files numerous *amicus* briefs each year in the U.S. Supreme Court and other federal and state courts, seeking to provide

amicus assistance in cases that present issues of broad importance to criminal defendants, criminal defense lawyers, and the criminal justice system as a whole.

NACDL has a particular interest in cases that involve surveillance technologies and programs that pose new challenges to personal privacy. The NACDL Fourth Amendment Center offers training and direct assistance to defense lawyers handling such cases in order to help safeguard privacy rights in the digital age. NACDL has also filed numerous *amicus* briefs in this Court and the Supreme Court on issues involving digital privacy rights, including: *Carpenter v. United States* (2018) 138 S. Ct. 2206; *Riley v. California* (2014) 134 S. Ct. 2473; *United States v. Jones* (2012) 132 S. Ct. 945.

D. Identification of the Innocence Project, Inc.

The Innocence Project, Inc., works to free the innocent, prevent wrongful convictions, and create fair, compassionate, and equitable systems of justice for everyone. To date, the Innocence Project has helped to free or exonerate more than 200 people who, collectively, spent more than 3,800 years behind bars. Integral to the Innocence Project's work are the questions about constitutional and discovery rights at issue in this case.

The Innocence Project has appeared as *amicus curiae* in numerous state and federal courts – at all levels – across the country including, in this Court: *People v. Lemcke* (2021) 11 Cal.5th 644; *In re Richards* (2012) 55 Cal.4th 948; and *In re Richards* (2016) 63 Cal.4th 291.

E. Identification of the New York Legal Aid Society.

The Legal Aid Society (LAS) is a nonprofit New York corporation. The organization has provided free legal services to

low-income families and individuals since 1876. As the primary public defender in New York City, LAS employs over 800 public defenders and provides representation to thousands of people arrested and accused of crimes every year. In 2013, the Society established its Digital Forensics Unit in recognition of the growing use of digital evidence in the criminal legal system. LAS is a leading advocate for criminal defense attorneys' access to digital evidence in New York and nationally.

LAS has appeared before the United States Supreme Court, the New York Court of Appeals, the New York Appellate Divisions, and other courts to represent its clients and as *amicus curiae* on issues that affect its clients and their communities.

F. Identification of the New York County Defender Services.

New York County Defender Services (NYCDS) is a public defender office serving indigent clients in the borough of Manhattan in New York City since 1997. NYCDS provides comprehensive legal advocacy for its clients facing all manner of criminal charges while promoting systemic reforms to the criminal legal system. Its diverse staff of attorneys, social workers, investigators, paralegals, jail advocates, and support staff is committed to protecting the rights of its clients. NYCDS has a vested interest in challenging impediments to a full and fair defense investigation in all criminal cases, including investigation into relevant digital and forensic evidence.

G. Identification of Federal Public Defender for the Eastern District of California.

The Federal Public Defender for the Eastern District of California (FPD-EDCA) is authorized under Title 18 U.S.C. § 3006A, the Criminal Justice Act, to provide legal representation to persons

financially unable to retain counsel in federal criminal and related proceedings, which sometimes include California state proceedings ancillary to state habeas cases. The FPD-EDCA represents clients in 34 California counties from Kern to the south and Shasta to the north.

The FPD-EDCA has appeared before the United States Supreme Court, the California Supreme Court, and the California Courts of Appeal both on direct representation of its clients but also as amicus curiae counsel on issues of importance to its clients. The FPD-EDCA's appearance as an amicus curiae before California's reviewing courts has long been recognized in a number of published decisions.

H. The Dallas County Public Defender's Office.

The Dallas County Public Defender's Office is a 115-attorney agency in Dallas County, Texas that provides client-centered legal representation for indigent clients in the Dallas County courts. The Office seeks to ensure consistent, effective representation and equal access to justice for our clients; we have also indicated throughout the years an express interest in statewide and nationwide matters of evidentiary and constitutional law. Consistent with the interests represented in this *amicus*, the Office is currently litigating a matter of first impression involving geofencing in the Texas criminal high court.

The Dallas County Public Defender's Office has appeared as *amicus curiae* in the United States Supreme Court and as lead counsel in the Texas Court of Criminal Appeals, Texas intermediate Courts of Appeal, and Dallas County district and county courts on issues relevant to our clients and to indigent defense in general.'

I. Identification of the Salt Lake Legal Defenders Association.

The Salt Lake Legal Defender Association (SLLDA) is a non-profit corporation formed in December 1964 "[t]o fulfill the constitutional and moral obligation to defend those accused of crime and involved in related proceedings who are financially unable to employ legal counsel." (SLLDA Bylaws, Article II (1).) SLLDA employs 100 attorneys and 85 support staff. The felony team represents clients charged with felonies and class A misdemeanors in the District Court, the misdemeanor team represents clients in the Salt Lake City and Salt Lake County Justice Courts, and the appellate team practices chiefly in the Utah Supreme Court and the Utah Court of Appeals.

SLLDA is the largest public defender agency in Utah and handles approximately 40% of all indigent matters in the state. SLLDA lawyers are highly skilled in trial practice, application of rules of evidence and procedure, and constitutional law. SLLDA lawyers have appeared before the United States Supreme Court, the Utah Supreme Court, and the Utah Court of Appeals. SLLDA has appeared as *amicus curiae* on a number of important criminal cases before the United States Supreme Court, Utah appellate courts, and appellate courts in other states.

J. Statement of Financial Interest of *Amicus Curiae*.

The undersigned, Donald E. Landis, Jr., who appears as counsel for *amici*, certifies to this Court that no party involved in this *amicus curiae* has tendered any form of compensation, monetary or otherwise, for legal services related to the writing or production of this brief, and additionally certifies that no party to this *amicus*

curiae has contributed any monies, services, or other form of donation to assist in the production of this brief.

K. Statement of Legal Interest of *Amicus Curiae*.

Amici have both a general and specific interest in the subject matter of this litigation.

First, *amici* consists largely of criminal defense lawyers who practice with defender offices, in private practice, or in non-profit legal organizations. *Amici*'s memberships are regularly involved in state and federal constitutional and statutory criminal discovery issues that effect the defense of those charged with crimes across this State and the country. As a result, *amici* have an interest in ensuring the vitality of the constitutionally protected right to trial, counsel, and confrontation that is ensured by a full and vigorous investigation, discovery search, case preparation, and trial presentation.

Second, *amici* have a specific interest in the issues presented here, as they are regularly involved in proceedings in which the reach of the right to Due Process, and the reach of the compulsory process clauses of the United States and California Constitutions, are at issue. *Amici* CACJ, CPDA, and NACDL have previously appeared in this Court as *amicus curiae* in litigation involving related discovery issues in the cases of *Facebook, Inc., et al., v. San Diego County Superior Court (Hunter/Thomas)* (2018) 4 Cal.5th 1245 and *Facebook, Inc., v. San Diego County Superior Court (Touchstone)* (2020) 10 Cal.5th 329. In addition, real party Pina is represented by lawyers who are CACJ and/or CPDA members.

Third, *amici* contacted lead counsel for real party Pina and requested to assert the interests of the defense bar in the litigation

generally, because of *amici*'s indicated interest and history of involvement in the issues presented.

Fourth, as the largest public defender organization in New York City, LAS attorneys regularly litigate federal and state constitutional issues, as well as statutory issues. Due to the growing reliance by the public on technology not bound by state lines, the decisions and interpretations by courts outside the state of New York are increasingly affecting the practice within the state.

LAS has a specific interest in the issues presented here because LAS attorneys grapple regularly with the implications of being denied access to critical evidence possessed by social media companies. Most of the world's most popular social media companies are headquartered in California, including Snap Inc. and Meta Platforms, Inc. For LAS attorneys to subpoena many of these companies, they are required to domesticate the subpoena pursuant to the Uniform Act to Secure the Attendance of Witnesses from Within or Without a State in Criminal Proceedings, codified in California as Penal Code section 1334 to section 1334.6 and codified in New York as N.Y. C.P.L. § 640.10. As a result, the effects of this Court's decision will ripple out to criminal matters well beyond the borders of California and the California courts, including to cases that are being prosecuted in New York. LAS has a direct interest in preserving the ability of judges to compel production of relevant and potentially exculpatory evidence, whether the evidence is stored on a social media platform or elsewhere.

Fifth, the FPD-EDCA's interest in this litigation is for the benefit of its present and future clients and their access to the electronic evidence often vital to their cases.

L. Application to File.

For the reasons explained immediately above, *amici* respectfully urges this Court to find that there is sufficient good cause for this Court to permit *amici* to file its brief on the merits.

II. AMICI'S BRIEF ON THE MERITS.

While the decision below correctly enforced real party Pina's subpoena, we first write to support real party Pina's alternate, narrower basis for upholding that subpoena. We think this case can be decided simply by finding the Stored Communications Act (SCA), 18 U.S.C. § 2701 et seq., does not impliedly create an unqualified evidentiary privilege for "electronic communication service" providers, including social media companies. To find otherwise has no basis in statutory text or legislative history.

A. Affirming the Decision below Is Necessary to Preserve Courts' Truth-seeking Function.

This case involves 21st century technology but touches on 18th century rights so fundamental to the adversarial, truth-seeking process that they are written into the fabric of our legal system. (*Washington v. Texas* (1967) 388 U.S. 14, 19-20 ["[T]he Framers of the Constitution felt it necessary specifically to provide that defendants in criminal cases should be provided the means of obtaining witnesses so that their own evidence, as well as the prosecution's, might be evaluated by the jury."]; see also *United States v. Burr* (C.C.D. Va. 1807) 25 F. Cas. 187, 192 (No. 14,694) ["Yet it is a very serious thing, if such letter [belonging to President Jefferson] should contain any information material to the defence, to withhold from the accused the power of making use of it."]; *Chambers v. Mississippi* (1973) 410 U.S. 284, 302 ["Few rights are more

fundamental than that of an accused to present witnesses in his own defense."].) Indeed, defendants' access to compulsory process is "imperative" to the function of the courts. (*United States v. Nixon* (1974) 418 U.S. 683, 709.)

As explained below, access to evidence on social media platforms is becoming increasingly essential to a meaningful defense. Just as with other, far more sensitive, categories of discovery, judges are well-equipped to balance and protect all interests involved.

1. Social media evidence is increasingly essential to a meaningful defense.

Courts' interpretation of the Stored Communications Act (SCA) carries momentous implications for the ability of people across the country to defend themselves against criminal accusations. As the type and amount of material shared online balloons, evidence obtained from social media plays an increasingly prominent role in criminal trials. For instance, in 2013, law enforcement agencies made 23,598 requests for material from Facebook alone. In 2019, they made 101,862 requests.[1] Courts around the country are flush with cases in which evidence obtained from social media features as central, and occasionally the only, evidence against the accused.[2]

---

[1] *See Transparency, United States*, available at https://transparency.facebook.com/government-data-requests/country/US/jan-jun-2020 (last visited May 10, 2021).

[2] *See*, e.g., *United States v. Gonzalez-Barbosa* (1st Cir. 2019) 920 F.3d 125, 130 [relying on social media posts as evidence]; *United States v. Pierce* (2d Cir. 2015) 785 F.3d 832, 840-41[Facebook photos and video]; *United States v. Stoner* (3d Cir. 2019) 781 Fed.Appx. 81, 86 [YouTube video]; *United States v. Denton* (4th Cir. 2019) 944 F.3d 170, 175 [Facebook messages]; *United States v. Madrid* (5th Cir. 2017) 676 Fed.Appx. 309, 315 [Facebook photo]; *United States v.*

Social media content holds equal, if not even greater, import for the accused mounting a defense. Yet, unlike law enforcement, they are regularly denied access to messages, photos, and videos essential to their defenses based on the extrapolative interpretation of the SCA advanced by petitioners. *Amici* commonly encounter cases where expired Instagram "stories," deleted messages, and photos shared only with "friends" contain valuable and potentially exculpatory evidence that remains inaccessible absent production by the social media company.[3]

A few representative examples illustrate the damage social media companies inflict on individual defendants as well as the courts' search for truth when permitted to use the SCA to blockade defense subpoenas.

a. Evidence of a third-party perpetrator.

Omar Ameen was an Iraqi refugee living with his family in Sacramento, California. He supported his wife and four children by

---

Farrad (6th Cir. 2018) 895 F.3d 859, 864 [relying on Facebook photos without any physical evidence, eyewitness testimony, or inculpatory statements by defendant in gun possession trial]; *United States v. Johnson* (7th Cir. 2019) 916 F.3d 579, 588 [Facebook photos]; *United States v. Rembert* (8th Cir. 2017) 851 F.3d 836, 839 [Facebook video]; *United States v. Barnes* (9th Cir. 2018) 738 Fed.Appx. 413, 416 [Facebook posts]; *United States v. Branson* (11th Cir. 2019) 791 Fed.Appx. 33, 34–35 [social media photos were only evidence of gun possession]; *United States v. Torres* (D.C. Cir. 2018) 894 F.3d 305, 313 [Facebook photos].

[3] *See* Jeffrey D. Stein, *Why Evidence Exonerating the Wrongly Accused Can Stay Locked Up on Instagram*, Wash. Post, Sept. 10, 2019, available at https://www.washingtonpost.com/opinions/2019/09/10/why-evidence-exonerating-wrongly-accused-can-stay-locked-up-instagram/.

working as a delivery driver. He had no criminal history. In August 2018, federal agents arrived at his home and arrested him for murder.[4] Federal prosecutors asserted that, prior to his resettlement in the United States, he had belonged to ISIS and executed a police officer in Rawah, Iraq. He was held without bond pending an extradition hearing.[5] The prosecution's request for certification of extradition relied exclusively on a single purported eyewitness' statement that Mr. Ameen had pulled the trigger.[6]

Mr. Ameen steadfastly maintained that he had never murdered anyone, let alone an Iraqi police officer. He insisted that he could not have participated, because, at the time, he was over 600 miles away in Mersin, Turkey.[7] Prior to certifying the extradition, the magistrate judge agreed to consider only limited evidence that "obliterates"

---

[4] *See* Matt Stevens & Gabe Cohn, *ISIS Member Arrested in Sacramento, U.S. Says*, N.Y. Times, Aug. 15, 2018, available at https://www.nytimes.com/2018/08/15/world/middleeast/sacramento-al-qaeda-isis-arrest.html.

[5] *See* Minutes for Detention Hearing, *In re Extradition of Ameen*, No. 2:18-MJ-152-EFB (E.D. Cal. Aug. 20, 2018), ECF No. 14.

[6] *See* Memorandum and Order Declining to Certify Extradition at 13, *In re Ameen* (E.D. Cal. Apr. 21, 2021).

[7] *See* e.g., Request for Issuance of Letter Rogatory at 1, *In re Ameen,* (E.D. Cal. Dec. 19, 2018). Mr. Ameen and his federal defenders feared that extradition to Iraq would result in almost certain death. See Ben Taub, *The Fight to Save an Innocent Refugee from Almost Certain Death*, The New Yorker (Jan. 27, 2020), at https://www.newyorker.com/magazine/2020/01/27/the-fight-to-save-an-innocent-refugee-from-almost-certain-death.

probable cause.[8] Mr. Ameen's attorneys presented extensive evidence that he had remained in Mersin, without returning to Iraq, through-out the period of the murder.[9] They even presented phone records placing Mr. Ameen's cell phone in Mersin within an hour of the murder and showing call patterns consistent with Mr. Ameen's prior phone use.[10] Nonetheless, the prosecution pursued extradition, maintaining that none of the evidence presented proved that Mr. Ameen had not secretly traveled to Rawa to commit the murder.[11]

Thus, Mr. Ameen's attorneys undertook to prove the identities of the actual murderers. The prosecution had disclosed a photograph posted to Twitter of what appeared to be the actual culprits carrying guns (Mr. Ameen was not among them) with a caption announcing the killing and applauding the killers. The post also contained a link to a Facebook page. By the time that Mr. Ameen's attorneys received the disclosure, Twitter and Facebook had deactivated the accounts and removed the posts. Because the Twitter account responsible for posting the photograph and caption likely posted other content that could help identify the true perpetrators and corroborate Mr.

---

[8] *See* Memorandum and Order at 14, *In re Ameen* (E.D. Cal. May 22, 2019).

[9] *See* Extradition Hearing Brief at 4-11, *In re Ameen* (E.D. Cal. May 14, 2019).

[10] *See* Third Supplemental Extradition Hearing Brief at 3-7, *In re Ameen* (E.D. Cal. Jan. 26, 2021).

[11] *See*, e.g., Reply to Defense's Second Supplemental Extradition Hearing Brief at 2, *In re Ameen* (E.D. Cal. Feb. 12, 2020); see also Further Memorandum in Support of Extradition and Opposition to Admission of Cell Phone Records and Employer Declarations at 4-14, *In re Ameen* (E.D. Cal. Feb. 27, 2021.)

Ameen's innocence, Mr. Ameen's attorneys applied for a subpoena requiring Twitter to produce key content, including other photos, posted by the account.[12] Likewise, they applied for a subpoena requiring Facebook to produce the original page linked to in the Twitter post.[13]

Mr. Ameen's federal defenders knew that even if the District Court held the companies in contempt, they would refuse to disclose the content at least until they exhausted the full appellate process.[14] Lacking the time to litigate the issue further, Mr. Ameen's attorneys withdrew the subpoenas. (*Ibid*.) According to one of them, Facebook and Twitter "have the ability to fight us tooth and nail and not give us any-thing. . . . We had a hearing staring us in the face, and we didn't have the time to fight them all the way." (*Ibid*.) As a result, they were

---

[12] *See* Request for Court Approval of Defense Subpoena for Twitter Information Under 18 U.S.C. § 2703(c)(1)(B) & (d) & Subpoena Attach. A, *In re Ameen* (E.D. Cal., Feb. 21, 2019), ECF Nos. 65 & 65-2.

[13] *See* Request for Court Approval of Defense Subpoena for Facebook Information Under 18 U.S.C. § 2703(c)(1)(B) & (d) & Subpoena Attach. A, *In re Ameen* (E.D. Cal. Feb. 15, 2019), ECF Nos. 61 & 61-2.

The subpoenas sought evidence including, *inter alia*, the then-deactivated "public content of those activities [listed in the ac-count's activity logs]," ECF No. 65-2 at 3 (Twitter), and "the original social media post," ECF No. 61-2 at 3 (Facebook).

[14] Cf. Ethan Baron, *Facebook and Twitter in 'inexcusable' contempt of court over refusal to hand over private messages in murder case*, Mercury News, Aug. 2, 2019, available at https://www.mercurynews.com/2019/08/02/facebook-and-twitter-in-inexcusable-contempt-of-court-over-refusal-to-hand-over-private-messages-in-murder-case/ (describing unrelated case in which Facebook refused to comply with trial court's order despite contempt finding).

never able to access potentially pivotal evidence establishing who actually committed the murder with which Mr. Ameen was charged.[15]

b. Evidence of witness bias.

The value of social media content in criminal trials is not limited to corroboration of *alibis* or inculpation of third-party perpetrators. Posts can also reveal a key witness' bias against the person standing trial or other reasons to doubt their credibility. These forms of case-altering evidence are frequently shared on social media, yet remain out of the defense's reach.

For example, in *Facebook, Inc. v. Superior Court* (2020) 46 Cal.App.5th 109, review dismissed, remanded by *Facebook v. S.C.*, 270 Cal.Rptr.3d 45 (Mem), October 21, 2020, the defense sought Facebook messages that it proffered would help establish a critical eyewitness' motive to fabricate. Specifically, the messages would have established both the witness' jealousy at the defendant's involvement with other women as well as a motive to protect herself from criminal liability for the shooting in question. (*Id.*, at p. 116.) The trial court agreed the evidence sought by the defense was

---

[15] On April 21, 2021, the court denied the government's extradition request, finding, "Considering the obliterative *alibi* evidence presented by the defense, this series of events [alleged by the prosecution] is simply not plausible." (Memorandum and Order Declining to Certify Extradition at 17, *In re Ameen* (Apr. 21, 2021).) The government has since transferred Mr. Ameen to the custody of Immigration and Customs Enforcement and initiated removal proceedings against him based on the same allegations rejected by the District Court. (See Sam Stanton, *After judge orders Iraqi man's release, agents whisked him to custody in Bakersfield*, Sac. Bee, Apr. 22, 2021, available at https://www.sacbee.com/news/local/article250875864.html.)

relevant. (*Id.*, at p. 117.) It ordered Facebook to comply with the subpoena. Facebook refused, citing the SCA and other grounds. (*Ibid.*) On appeal, the appellate court agreed that the defense had established a plausible justification for the content. (*Id.*, at p. 119.) Nonetheless, it granted Facebook's motion to quash without ruling on the SCA question, finding that the trial judge was required, but failed to consider factors beyond just the defense's justification for seeking the content. (*Id.*, at pp. 119-20.)

c. Evidence of Self-Defense.

In another example[16] of how defenses often hinge on evidence located exclusively on social media platforms, a young man in California was charged with shooting at a car in 2018.[17] Two months earlier, an individual associated with the car had previously shot at him and then used an Instagram account to harass, threaten, and stalk him. (*Id.*, at p.p. 4-5.) The prior shooting and subsequent harassment placed him "in constant fear for his life," but the threatening Instagram messages were deleted before the charged shooting occurred. (*See*, *id.* at p.p. 1 & 4-5.) The defense served Facebook (the owner of Instagram) with a subpoena to obtain deleted posts and messages in support of his self-defense argument. (*See*, *id.*,

---

[16] This example is redacted to address confidentiality and other ethical obligations that bind *amici*, see California Rules of Prof' Conduct R. 1.6 & 1.9 (2025).

[17] *See* Opposition to Non-Party Instagram Motion to Quash Subpoena Duces Tecum, *People v. [REDACTED]*, No. [REDACTED], at 3 (Cal. Super. Ct. [REDACTED]) (on file with *amici*).

Facebook refused to comply, citing the SCA.[18] (See, *id.*, at p.p. 1-2.)

Although the case was ultimately dismissed, it serves as yet another example of both the central role that social media content can play in criminal cases as well as the devastating impact that reading a silent privilege into the SCA has on individuals' ability to defend themselves in court. *Amici* often learn of potentially exculpatory evidence on social media that is not accessible, because it is deleted, restricted to certain viewers, or otherwise not visible to the public. Inserting a silent privilege into the SCA – as petitioners are asking this Court to do – strips judges of the power to compel essential evidence and creates an uneven playing field by denying the accused access to now-ubiquitous and increasingly pivotal social media evidence.

2. Judges are well-equipped to balance and protect privacy interests. they do it every day.

For centuries, judges have ensured adequate protection for even the most sensitive evidence while simultaneously upholding defendants' compulsory process rights, recognizing and respecting the fundamental role that compulsory process plays in the truth-seeking function of our legal system. (See, e.g., United States v. Burr (C.C.D. Va. 1807) 25 F. Cas. 187, 192 (No. 14,694) [compelling production of letter belonging to President Jefferson under protective order prohibiting use outside of trial].) A blanket privilege

---

[18] Although the Stored Communications Act permits disclosure "to an addressee or intended recipient of such communication," 18 U.S.C. § 2702 (b)(1), Meta argues that deleted messages are no longer addressed or intended to be viewed by the recipient and therefore beyond the reach of process. (See, e.g., *Facebook, Inc. v. Pepe* (D.C. 2020) 241 A.3d 248, 254.)

eliminating courts' power to compel evidence held by social media companies would dispense with judges' seasoned expertise and sharply curtail their role in bringing the truth to light. (See *Pierce Cnty. v. Guillen* (2003) 537 U.S. 129, 144 ["[P]rivileges impede the search for the truth."].)

When sensitive materials are relevant to a trial, courts have time-tested tools and rules to safeguard privacy interests, both before subpoenas are enforced and after responsive materials are returned. Every day, judges consider and rule on applications for subpoenas to ensure they are not used as mechanisms for harassment or unreasonable intrusion. For example, under Fed. R. Crim. P. 17 and its local analogues, a party seeking a pre-trial subpoena must show that: (1) the materials sought are "evidentiary and relevant," (2) they are "not other-wise procurable . . . by exercise of due diligence," (3) "the party cannot properly prepare for trial without such production and inspection in advance of trial and that the failure to obtain such inspection may tend unreason-ably to delay the trial," and (4) "the application is made in good faith and is not intended as a general 'fishing expedition.'" (*United States v. Nixon* (1974) 418 U.S. 683, 699-700 [footnotes omitted].) The rule provides additional protections where subpoenas target "personal or confidential information" of victims. (See, e.g., Fed. R. Crim. P. 17(c)(3) [requiring a court order and prior notice].) Judges routinely review applications for subpoenas and, where justified, deny those that fall short of the applicable standard or that are unreasonable in some other respect.

Even after receiving a court-authorized subpoena, a third party may still move the court to narrow or quash it "if compliance would be unreasonable or oppressive." (Fed. R. Crim. P. 17 (c)(2); see also

John Henry Wigmore, *A Treatise on the System of Evidence in Trials at Common Law* at p. 2998 § 2211 (1904) [recognizing a judge's discretion to quash subpoenas where "the document's utility in evidence would not be commensurate with the detri-ment to the witness"].) Such oft-invoked rules providing for *ex ante* adversarial review enable judges to ensure that subpoenas, including those to social media companies, do not serve as weapons of harassment, intrusiveness, or anything but instruments of truth-seeking.

Moreover, judges have an array of tools at their disposal to regulate what information is ultimately produced *ex post* in response to a subpoena. For instance, judges can review the material *in camera*, redact it, and/or even impose a protective order limiting its use, when so required by dueling interests. (*See,* e.g., *Burr, supra*, 25 F.Cas. at p. 192 [enforcing subpoena under protective order].) In extremely sensitive cases, *amici* have been bound by protective orders that not only limited which attorneys within a defense office were permitted to view the protected materials, but specified the security measures to be taken in whichever office the material was stored. In several of *amici*'s cases, courts even required that the materials be returned or destroyed at the conclusion of the case.

There is no reason to treat online digital evidence as categorically distinct from any of the far more sensitive types of records that judges routinely review, compel and regulate. Judges retain the power to order third-party custodians to provide far more sensitive categories of evidence, including medical records from

hospitals,[19] mental health records from providers,[20] educational records from schools,[21] substance abuse treatment records from rehabilitation centers,[22] bank records from banks,[23] financial services records from service providers,[24] cell site location information from phone companies,[25] and tax records from preparers.[26]

---

[19] *See* HIPAA, 45 CFR 164.512 (e)(1)(ii)-(vi) (permitting disclosure in response to subpoenas).

[20] See *Ibid.*

[21] See 34 CFR § 99.31 (a)(9) [authorizing disclosure in response to judicial order or lawfully issued subpoena]; California Education Code section 49076 [same].)

[22] See 42 CFR § 2.61 [authorizing disclosure in response to court order and subpoena].

[23] *See Young v. United States Dep't of Justice* (2d Cir. 1989) 882 F.2d 633, 641-43 [observing that banker-client duties of confidentiality do not create a testimonial privilege); *see also Young v. United States Dep't of Justice* (2d Cir. 1989) 882 F.2d 633, 641-43 [observing that banker-client duties of confidentiality do not create a testimonial privilege]; 18 U.S.C. § 986 [permitting subpoenas for bank records]; California Health and Safety Code section 11488.1.

[24] *See Trump v. Vance* (2020) 140 S.Ct. 2412, 2429-30 [holding a state criminal subpoena may compel an accounting firm to disclose a client's personal financial records]; see also *Stokwitz v. United States* (9th Cir. 1987) 831 F.2d 893, 894-97 [establishing tax records are subject to subpoena through normal discovery process]; 12 U.S.C. §§ 3401–3423 [no limitations on criminal defense subpoenas to financial services intermediaries seeking records for clients, includeing those other than the defendant].

[25] *United States v. Martin* (E.D. Tenn. Dec. 23, 2008) No. 3:07-CR-51, slip op. at p.p. 4, 10 [upholding criminal defense subpoena seeking nonparty's cell site location information].

[26] 26 CFR § 301.7216-2 (f).

Judges routinely review and regulate the disclosure of much more private materials. Social media companies do not require a special privilege.

B. Affirming the Decision below Is Necessary Because People Accused of Crimes Are Rarely Able to Litigate Subpoenas Against Social Media Companies to a Conclusion.

Affirming the decision below is necessary because social media giants have weaponized the SCA to avoid compliance with subpoenas, knowing full well that the appellate process only rarely provides a timely avenue for defendants to access the critical evidence stored on their platforms. The dilemma that faced Mr. Ameen's federal defenders[27] repeats in countless public defender offices every year: either spend already-limited time and office resources litigating against mammoth technology companies capable of outspending and outwaiting them, in many cases postponing clients' opportunity to confront the allegations against them and prolonging clients' pre-trial detention, or proceed to trial without potentially exculpatory evidence. As *amici* know all too well, rather than risk a trial without key evidence blocked by social media companies, clients are often willing to plead guilty.[28]

Moreover, social media companies have the resources to suffer contempt and delay production even in the face of contrary legal rulings. As one judge observed, "Face-book and Twitter appear to be

---

[27] See Part II. (A)(1), *supra*.

[28] Cf. Jeffrey D. Stein, *Why Evidence Exonerating the Wrongly Accused Can Stay Locked Up on Instagram*, Wash. Post, Sept. 10, 2019, available at https://www.washingtonpost.com/opinions/2019/09/10/why-evidence-exonerating-wrongly-accused-can-stay-locked-up-instagram/.

using their immense resources to manipulate the judicial system in a manner that deprives two indigent young men facing life sentences of their constitutional right to defend themselves."[29]

Exhausting the appellate process can take months, if not years. For example, in the case just referenced and described in Part A (2), *supra*, Mr. Sullivan and Mr. Hunter sought non-public evidence from Facebook and Twitter. They spent nearly half a decade litigating the companies' SCA challenges to their subpoenas in the trial and appellate courts. (See *Facebook, Inc. v. Superior* Ct. (2018) 4 Cal. 5th 1245, 1253.) They remained in pretrial detention for six years.[30] Eventually, forced to choose between continuing to remain in jail indefinitely while litigating their subpoenas and proceeding to trial without the exculpatory evidence, they opted for the latter.[31]

---

[29] Order and Judgment of Contempt, *People v. Sullivan and Hunter*, Nos. 13235657 & 13035658 at ¶ 1 (Cal. Super. Ct. Jul. 26, 2019).

This Court reversed the underlying order enforcing the subpoenas, finding that it failed to consider all factors in the jurisdiction's general balancing test for reviewing subpoenas, "particularly options for obtaining materials from other sources." (*Facebook, Inc. v. Superior Court* (2020)46 Cal.App.5th 109, 119.)

[30] See Maura Dolan, *After that $5-billion fine, Facebook gets dinged again: $1,000 by judge overseeing murder trial*, Los Angeles Times (Jul. 26, 2019)

[31] Mr. Hunter was acquitted. Mr. Sullivan was convicted. (See Petition for Writ of Certiorari, at p. 5, *Facebook, Inc. and Twitter, Inc. v. Superior Court, Derrick D. Hunter, and Lee Sullivan*, Supreme Court of the United States (2020) (No. 19-1006).

Facebook and Twitter never produced the contested evidence.[32]

Likewise, in yet another case, a defendant served Facebook with a subpoena for content related to a key prosecution witness. (*See Facebook, Inc. v. Superior Court* (2020)10 Cal. 5th 329, 338.) Facebook refused to comply, citing the SCA. The trial judge denied Facebook's motion to quash. (*Ibid*.) Over four years later, the appellate process and ensuing litigation on remand remained ongoing and the accused had yet to receive a trial or the evidence from Facebook.[33]

Thus, even where a trial court agrees that the defense is entitled to evidence stored on a social media platform, as occurred in Mr. Pina's case, the time generally required to litigate the companies' inevitable appeals can dramatically lengthen the pretrial detention period and, depending on the offenses charged, even exceed the maximum possible sentence upon conviction. Such math explains why the social media companies' interpretation of the SCA is so often shielded from appellate review. And why this Court should affirm the decision below and clarify that the SCA does not impliedly create an unqualified privilege for social media content from ambiguous silence in its text and legislative history.

CONCLUSION

For all of the reasons advanced by real party Pina and fellow *amici* as discussed above, this Court should affirm the Court of

---

[32] *See Ibid*.; see also Petition for Writ of Certiorari at p. 9, *Facebook, Inc. and Twitter, Inc. v. Superior Court, Supreme Court of the United States* (2020)(No. 19-1006).

[33] See Order, *People v. Touchstone,* No. CD268262 (San Diego Sup. Ct. May 12, 2021).

Appeal's decision below and order petitioners Snap Inc. and Meta Platforms, Inc., to comply with the subpoena as ordered by the respondent court.

Dated: February 24, 2025

Respectfully submitted,

DONALD E. LANDIS, JR.
State Bar No. 149004

//Martin Antonio Sabelli//

MARTIN ANTONIO SABELLI
State Bar No. 164772

Attorneys for *Amici*

Type text here

RULE 8.204 (c)(1) CERTIFICATION

I, Donald E. Landis, Jr., declare as follows:

I represent petitioner on the matter pending in this court. This *Amicus Curiae* was prepared in Wordperfect X21, and according to that program's word count, it contains 6226 words.

I declare under penalty of perjury the above is true and correct. Executed on February 24, 2025, in the City of Carmel, California.

DONALD E. LANDIS, JR.
State Bar No. 149006
Declarant

PROOF OF SERVICE

I am employed in the City of Carmel, California, in the State of California. I am over the age of eighteen and not a party to the above-captioned action. My business address is P.O. Box 221278, Carmel, California 93922.

On the date stated below, I electronically filed:

JOINT APPLICATION OF THE CALIFORNIA ATTORNEYS FOR CRIMINAL JUSTICE, THE CALIFORNIA PUBLIC DEFENDER ASSOCIATION, THE NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS, THE NEW YORK LEGAL AID SOCIETY, THE INNOCENCE PROJECT, INC., THE NEW YORK COUNTY DEFENDER SERVICES, THE FEDERAL DEFENDERS OFFICE FOR THE EASTERN DISTRICT OF CALIFORNIA, THE DALLAS COUNTY PUBLIC DEFENDER'S OFFICE, AND THE SALT LAKE LEGAL DEFENDER ASSOCIATION TO APPEAR AS *AMICUS CURIAE* ON BEHALF OF REAL PARTY IN INTEREST PINA PURSUANT TO CALIFORNIA RULE OF COURT, RULE 8.520 (f), AND BRIEF IN SUPPORT OF REAL PARTY IN INTEREST PINA.

with the Clerk of the Court using the TrueFiling system, which will be served by operation of the Court's electronic filing system to all parties below:

Summer Stephan, District Attorney
Linh Lam, Chief Deputy District Attorney,
Appellate & Training Division
Karl Husoe, Deputy District Attorney
330 W. Broadway, Suite 860
San Diego, CA 92101
Email: karl.husoe@sdcda.org
Counsel for The People, Real Party in Interest

David Jarman, Deputy District Attorney
Office of San Diego County District Attorney
North County Regional Center
325 S. Melrose Drive, Suite 5000 Vista, CA 92081
Email: david.jarman@sdcda.org
Counsel for The People, Real Party in Interest

Paul Rodriguez, Public Defender
Office of the Primary Public Defender
Troy A. Britt, Deputy Public Defender
Nadine Valdecini-Arnold, Deputy Public Defender
451 A. Street, Suite 900 San Diego, CA 92101
Email: troy.britt@sdcounty.ca.gov; nadine.valdecini@sdcounty.ca.gov
Counsel for Real Party in Interest Adrian Pina

Julie Schwartz
Ryan Mrazik
John R. Tyler
Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101
Email: jschwartz@perkinscoie.com; rmrazik@perkinscoie.com; rtyler@perkinscoie.com

Natasha Amlani
Perkins Coie LLP
1888 Century Park East
Suite 1700
Los Angeles, CA 90067
Email: namlani@perkinscoie.com
Counsel for Petitioner Meta Platforms, Inc.

Joshua S. Lipshutz
Gibson, Dunn & Crutcher LLP
One Embarcadero Center, # 2600
San Francisco, CA 94111
Email: jlipshutz@gibsondunn.com

Michael J. Holecek
Gibson, Dunn & Crutcher LLP
333 South Grand Avenue
Los Angeles, CA 90071
Email: mholecek@gibsondunn.com

Natalie J. Hausknecht
Gibson, Dunn & Crutcher LLP
1801 California Street
Suite 4200
Denver, CO 80202
Email: nhausknecht@gibsondunn.com
Counsel for Petitioner Meta Platforms, Inc.

On the same day, I also filed the above brief by mail to the following:

Court of Appeal,
Fourth Appellate District, Division One
750 B Street, Suite 300
San, Diego, CA 92101

San Diego County Superior Court,
Hon. Daniel F. Link, Judge C/O Judicial Services
325 S. Melrose, Department 21
Vista, CA 92081
Respondent

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed in the City of Carmel, California, on February 24, 2025.

DONALD E. LANDIS, JR.
Declarant