IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No.:

CHARLES HOYT,
RODNEY DUGAR,
VICTORIA STILZ,
DWAYNE BRONK,
NICOLE BAILEY,

Individually and on behalf of all others similarly situated,

Plaintiffs,

v.

AMAZON WEB SERVICES, INC.

Defendant.

CLASS ACTION COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiffs, Charles Hoyt, Rodney Dugar, Victoria Stiles, Dwayne Bronk, and Nicole Bailey, (hereinafter "Plaintiffs"), by and through their attorneys, file this Class Action Complaint individually and on behalf of all others similarly situated and in support thereof, state and aver as follows:

NATURE OF THE ACTION

1.   This Class Action Complaint seeks injunctive relief, including a temporary restraining order and preliminary injunctive relief, as well as damages on behalf of Plaintiffs (approximately 12 million subscribers and users of the social media application Parler) as a direct and proximate result of the actions of Defendant Amazon Web Services, Inc. ("AWS"), when it suspended Parler's account effective January 10, 2021 at 11:59 PM PST.

JURISDICTION AND VENUE

2.   This Court has subject matter jurisdiction pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1332(d)(2), because this is a class action, including claims asserted on behalf of a nationwide class, filed under Rule 23 of the Federal Rules of Civil Procedure on behalf of approximately 12,000,000 subscribers and users of the social media application "Parler," and the amount in controversy exceeds the jurisdictional amount of $5,000,000, exclusive of interest and costs.

3.   This Court has personal jurisdiction over the Defendant AWS because Defendant has conducted business and committed many of the acts complained of in the state of Colorado, each state within the United States of America, as well as outside of the United States of America, via the use of digital communications, data transfers, data blocking, and other actions.

4. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b)(1), 1391(b)(2), 1391(b)(3), 1391(c)(2), and/or 1391(d).

PARTIES

5. All Plaintiffs identified herein, as well as the proposed class members, were subscribers and users of the social media application Parler and have suffered damages as a direct and proximate result of the actions of Defendant AWS, when it suspended Parler's account effective January 10, 2021 at 11:59 PM PST.

6. Plaintiff, Charles Hoyt, is a citizen of the state of Colorado and was a subscriber and user of the social media application Parler. Mr. Hoyt has suffered damages as a direct and proximate result of the actions of Defendant AWS, when it suspended Parler's account.

7. Plaintiff, Rodney Dugar, is a citizen of the state of California and was a subscriber and user of the social media application Parler. Mr. Dugar has suffered damages as a direct and proximate result of the actions of Defendant AWS, when it suspended Parler's account.

8. Plaintiff, Victoria Stilz, is a citizen of the state of Nevada and was a subscriber and user of the social media application Parler. Ms. Stilz has suffered damages as a direct and proximate result of the actions of Defendant AWS, when it suspended Parler's account.

9. Plaintiff, Dwayne Bronk, is a citizen of the state of Illinois and was a subscriber and user of the social media application Parler. Mr. Bronk has suffered damages as a direct and proximate result of the actions of Defendant AWS, when it suspended Parler's account.

10. Plaintiff, Nicole Bailey, is a citizen of the state of North Carolina and was a subscriber and user of the social media application Parler. Ms. Bailey has suffered damages as a direct and proximate result of the actions of Defendant AWS, when it suspended Parler's account.

11.   Defendant Amazon Web Services, Inc., an Amazon.com, Inc. company, is a Delaware corporation with its principal place of business in Seattle, Washington. AWS is the world's leading cloud service provider, capturing almost a third of the global market. *See, Global Cloud Infrastructure Market Q3 2020*, https://www.canalys.com/newsroom/worldwide-cloud-market-q320. This is almost double the next largest competitor and equal to the next three largest competitors combined.

FACTS

12.   Plaintiffs hereby incorporate by reference all preceding paragraphs of this Complaint with the same force and effect as if set forth herein.

13.   All Plaintiffs identified herein, as well as the proposed class members, were subscribers and users of the social media application Parler when AWS suspended Parler's account effective January 10, 2021 at 11:59 PM PST.

14.   The social media application Parler is owned and operated by Parler, LLC, a Nevada limited liability corporation with its principal place of business in Henderson, Nevada.

15.   All subscribers and users of Parler were required to sign a contract with Parler called a "User Agreement" that sets forth and governs the legal relationship, access to services and products, and terms of use between Parler and its subscribers and users.

16.   As stated in a Complaint filed by Parler against AWS on January 11, 2021 (U.S. District Court Case No. 2:21-cv-00031, Western District of Washington at Seattle), Parler contracts with AWS to provide the cloud computing services Parler needs for its applications and website to function on the Internet. Further, both the applications and the website are written to work with AWS's technology. To have to switch to a different service provider would require

rewriting that code, meaning Parler will be offline for a financially devastating period of time. (<u>Exhibit A</u> - Parler Complaint at ¶ 13).

17.   On January 9, 2021, the Internet news site *BuzzFeed* posted an article with screenshots of a letter from AWS to Parler informing Parler that its account would be suspended at 11:59 pm PST on January 10, 2021, less than thirty hours later. (*See,* John Paczkowski, *Amazon Will Suspend Hosting For Pro-Trump Social Network Parler*, BuzzFeed, Jan. 9, 2021), https://www.buzzfeednews.com/article/johnpaczkowski/amazon-parler-aws. (<u>Exhibit B</u>).

18.   As also stated in the Parler Complaint, AWS, in fact, suspended Parler's account effective Sunday, January 10, 2021 at 11:59 PM PST. Parler was advised by AWS that the basis for the suspension was that AWS was not confident that Parler could properly police its platform regarding content that encourages or incites violence against others. However, according the Parler complaint, on Friday, January 8, 2021, one of the top trending tweets on the Twitter social media application was "Hang Mike Pence" and it appears that AWS took no action against Twitter, has any plans to take action, nor has made any threats to suspend Twitter's account. (<u>Exhibit A</u> - Parler Complaint at ¶ 3).

19.   Plaintiffs, as well as the overwhelming majority of Parler subscribers and users, are decent, law-abiding human beings who have complied with the terms of the Parler User Agreement and have not engaged in any type of offensive, violent, or hate speech <u>of any kind</u>.

20.   By suspending Parler's account, AWS intentionally interfered with the contractual relationship between Parler and its subscribers and users and effectively denied Plaintiffs access to the products and services provided by Parler pursuant to the User Agreement between Parler and the Plaintiffs.

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS
Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS
Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS
Sync your system to PACER to automate legal marketing.

fastcase
Smarter legal research.