

The Honorable Barbara J. Rothstein

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

PARLER LLC,

Plaintiff,

v.

AMAZON WEB SERVICES, INC.,

Defendant.

No. 2:21-cv-00031-BJR

DEFENDANT AMAZON WEB  
SERVICES, INC.'S OPPOSITION  
TO PARLER LLC'S MOTION  
FOR TEMPORARY  
RESTRAINING ORDER

OPPOSITION TO MOTION FOR TEMPORARY

## I. INTRODUCTION

This case is not about suppressing speech or stifling viewpoints. It is not about a conspiracy to restrain trade. Instead, this case is about Parler’s demonstrated unwillingness and inability to remove from the servers of Amazon Web Services (“AWS”) content that threatens the public safety, such as by inciting and planning the rape, torture, and assassination of named public officials and private citizens. There is no legal basis in AWS’s customer agreements or otherwise to compel AWS to host content of this nature. AWS notified Parler repeatedly that its content violated the parties’ agreement, requested removal, and reviewed Parler’s plan to address the problem, only to determine that Parler was both unwilling and unable to do so. AWS suspended Parler’s account as a last resort to prevent further access to such content, including plans for violence to disrupt the impending Presidential transition.

Despite Parler’s rhetoric, its lawsuit is no more than a meritless claim for breach of contract. But the facts are unequivocal: If there is any breach, it is Parler’s demonstrated failure and inability to identify and remove such content. AWS was well within its rights to suspend Parler immediately for those failures. Parler also cannot hold AWS liable in tort for enforcing the agreement’s express terms. And there is no antitrust claim where, as here, Parler cannot plausibly plead an agreement to cause it harm and the complained-of conduct is undeniably compatible with a legitimate purpose.

Compelling AWS to host content that plans, encourages, and incites violence would be unprecedented. Parler has no likelihood of prevailing on the merits, and the balance of equities and public interest strongly tip against an injunction. The motion for a temporary restraining order should be denied.

## II. FACTUAL BACKGROUND

### A. Parler Conducts the “Absolute Minimum” of Content Moderation.<sup>1</sup>

Parler operates a social media service that has gained favor as an alternative to Facebook and Twitter. Doran Decl. Ex. A. Parler prides itself on its hands-off approach to moderating

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<sup>1</sup> Declaration of Ambika Doran Ex. B.

1 user content. Parler’s homepage tells users to “[s]peak freely and express yourself openly,  
2 without fear of being ‘deplatformed’ for your views.” *Id.* In interviews, Parler’s CEO has stated  
3 he “do[es]n’t think it’s [Parler’s] obligation to” monitor the full range of it users’ content, Doran  
4 Decl. Ex. O, and promoted the service’s laissez-faire philosophy on content moderation. *See id.*  
5 Ex. D (“If you can say it on the street of New York, you can say it on Parler”); *id.* Ex. E at 4:48  
6 (“[W]hat we’ve decided to do is, let’s just not do any curation, no fact checking, let people do  
7 that on their own ....”); *id.* at 5:42 (attributing Parler’s projected growth to not moderating  
8 content as other social media services do); *id.* Ex. C at 2:02 (stating “we really don’t want to get  
9 into the business of kind of determining what is and is not allowed to be discussed”).

#### 10 **B. Parler Enters an Agreement with AWS for Web Hosting Services.**

11 On June 12, 2018, Parler signed up with AWS, which provides hosting and cloud  
12 computing services for businesses, nonprofits, and government organizations globally.  
13 Declaration of Amazon Executive 2 ¶ 3. Parler accepted the terms of the AWS Customer  
14 Agreement. *Id.* Ex. A. The Agreement requires that Parler “ensure that Your Content and your  
15 and End Users’ use of Your Content or the Service Offerings will not violate any of the Policies  
16 or any applicable law,” and makes clear that Parler is “solely responsible for the development,  
17 content, operation, maintenance, and use of” the material on its service. *Id.* § 4.2; *see also id.*  
18 § 4.5 (“You will ensure that all End Users comply with your obligations under this Agreement  
19 ....”). The Agreement also requires Parler to “immediately suspend access” to content that it  
20 learns violates its obligations under the Agreement. *Id.* § 4.5.

21 Parler further agreed to comply with AWS’s Acceptable Use Policy (“AUP”). *Id.* § 14;  
22 *see also* Executive 2 Decl. ¶ 3 & Ex. C. The AUP, in turn, makes clear Parler’s agreement not to  
23 use AWS to host certain content, including content that “violate[s] the rights of others, or that  
24 may be harmful to others.” *Id.*

25 The Agreement further makes clear that AWS may suspend or terminate an account  
26 “immediately” upon notice if AWS determines that an end user’s use of the services “poses a  
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1 security risk to the Service Offerings or any third party,” or otherwise breaches the Agreement.

2 *Id.* Ex. A § 6.1(a)-(b) (suspension); *id.* § 7.2(b) (termination).

3 **C. Parler Repeatedly Violates the Agreement.**

4 In mid-November 2020, AWS received reports that Parler was hosting content  
5 threatening violence, in breach of the agreement. Executive 2 Decl. ¶ 4. On November 17,  
6 2020, seeking to better understand Parler’s approach to content moderation, AWS provided  
7 Parler two representative examples, asked whether “this type of content ... violate[s] [Parler’s]  
8 policies,” and asked for “more detailed information on [Parler’s] policies and processes for  
9 handling and mitigating” such content. *Id.* & Ex. D. Two days later, Parler responded that it had  
10 referred one of the examples to its “regular contact for investigation.” *Id.* Ex. D.

11 Over the next seven weeks, AWS reported more than 100 additional representative pieces  
12 of content advocating violence to Parler’s Chief Policy Officer, including:

- 13 • “Fry’em up. The whole fkn crew. #pelosi #aoc #thesquad #soros #gates  
14 #chuckschumer #hrc #obama #adamschiff #blm #antifa we are coming for you and  
15 you will know it.”
- 16 • “#JackDorsey ... you will die a bloody death alongside Mark Suckerturd  
17 [Zuckerberg].... It has been decided and plans are being put in place. Remember  
18 the photographs inside your home while you slept? Yes, that close. You will die a  
19 sudden death!”
- 20 • “We are going to fight in a civil War on Jan.20<sup>th</sup>, Form MILITIAS now and  
21 acquire targets.”
- 22 • “On January 20th we need to start systematicly [sic] assassinating [sic] #liberal  
23 leaders, liberal activists, #blm leaders and supporters, members of the #nba #nfl  
24 #mlb #nhl #mainstreammedia anchors and correspondents and #antifa. I already  
25 have a news worthy event planned.”
- 26 • “Shoot the police that protect these shitbag senators right in the head then make the  
27 senator grovel a bit before capping they ass.”

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- 1 • “After the firing squads are done with the politicians the teachers are next.”
- 2 • “Death to @zuckerberg @realjeffbezos @jackdorsey @pichai.”
- 3 • “White people need to ignite their racial identity and rain down suffering and death
- 4 like a hurricane upon zionists.”
- 5 • “Put a target on these motherless trash [Antifa] they aren’t human taking one out
- 6 would be like stepping on a roach no different.”
- 7 • “We need to act like our forefathers did Kill [Black and Jewish people] all Leave
- 8 no victims or survivors.”
- 9 • “We are coming with our list we know where you live we know who you are and
- 10 we are coming for you and it starts on the 6th civil war... Lol if you will think it’s
- 11 a joke... Enjoy your last few days you have.”
- 12 • “This bitch [Stacey Abrams] will be good target practice for our beginners.”
- 13 • “This cu\*\* [United States Secretary of Transportation Elaine Chao] should be...
- 14 hung for betraying their country.”
- 15 • “Hang this mofo [Georgia Secretary of State Brad Raffensperger] today.”
- 16 • “HANG THAT N\*\*\*\*\* ASAP”

17 Executive 2 Decl. ¶ 5 & Ex. E at 1-3, 6-7, 13, 17, 28, 32, 49, 53-54; *see also generally id.* Ex. F  
 18 (more examples).

19 **D. AWS Exercises Its Right to Suspend Parler’s Account.**

20 On January 6, 2021, rioters supporting President Trump’s efforts to overturn President-  
 21 Elect Biden’s victory stormed the U.S. Capitol. Doran Decl. Exs. F-H. Five people died,  
 22 including a police officer. *Id.* Ex. I. The FBI and other law-enforcement agencies have since  
 23 opened at least 25 domestic terrorism cases relating to these incidents. *Id.*

24 Content encouraging violence continued to grow rapidly after the events of January 6,  
 25 and on January 8, 9, and 10, 2021, AWS reported additional examples of that content. Executive  
 26 2 Decl. ¶ 6. On January 8 and 9, AWS also spoke with Parler executives about its content  
 27 moderation policies, processes, and tools, and emphasized that Parler’s current approach failed to

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