

# EMERGING FRONTS IN SEX TRAFFICKING LITIGATION CONFERENCE

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## EMERGING FRONTS AND POLICY ISSUES



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WHERE WE ARE GOING

# Roadmap

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## **The § 1595 Engine**

*Why beneficiary liability is doing the heavy lifting*

2

## **Hospitality & Franchise Models**

*The maturing core — and where it is still expanding*

3

## **Online Platforms & Tech Intermediaries**

*Section 230, FOSTA, and the post-Reddit landscape*

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## **Financial Institutions**

*The Epstein wave and what comes after*

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## **Workplace & Professional Coercion**

*The trafficking / employment-law overlap*

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## **Property Owners & Other Frontiers**

*Apartments, motels, payment rails, AI*

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## **Practical Takeaways**

*For plaintiffs, defense, and in-house*



# The § 1595 Engine

## 18 U.S.C. § 1595(a) — Civil Remedy

Civil action against the perpetrator **or whoever knowingly benefits, financially or by receiving anything of value from participation in a venture which that person knew or should have known has engaged in an act in violation of this chapter.**

1

### KNOWINGLY BENEFITS

Financially or by receiving anything of value — broad and easy to plead at the motion-to-dismiss stage.

2

### PARTICIPATION IN A VENTURE

The most contested element. Circuits split on whether the defendant must participate in the trafficking venture itself or in a broader commercial venture.

3

### KNEW / SHOULD HAVE KNOWN

Constructive knowledge is enough. Pattern, red flags, repeated complaints, and industry-specific signals carry the day.

**Watch:** Circuit split on the participation element. Compare *Doe v. Red Roof Inns, Inc.*, 21 F.4th 714 (11th Cir. 2021) and *G.G. v. Salesforce.com, Inc.*, 76 F.4th 544 (7th Cir. 2023) with broader plaintiff-friendly readings emerging in S.D.N.Y. financial-institution decisions.



THE MATURING CORE — STILL EXPANDING

# Hospitality & Franchise Models

## THE FRAMEWORK PLAINTIFFS BUILT

- ***M.A. v. Wyndham Hotels & Resorts***  
425 F. Supp. 3d 959 (S.D. Ohio 2019)  
First major decision sustaining § 1595 claims against a major hotel franchisor — opened the field.
- ***Doe v. Red Roof Inns, Inc.***  
21 F.4th 714 (11th Cir. 2021)  
Tightened the participation element — financial benefit alone insufficient; defendant must take part in the venture.
- ***A.B. v. Marriott Int'l, Inc.***  
455 F. Supp. 3d 171 (E.D. Pa. 2020) and progeny  
Direct franchisor liability theories: agency, apparent authority, brand-standard control.
- ***G.W. v. Northbrook Lodging***  
Ga. State Ct. 2025  
First reported plaintiff jury verdict in a hotel-trafficking case — reset settlement posture.

## WHERE IT IS STILL EXPANDING

- **Down-market lodging**  
Independent motels, extended-stay properties, budget chains — thinner compliance and denser red-flag records.
- **Beyond the franchisor**  
Property owners, management companies, regional operators, revenue-share partners — easier participation pleading.
- **Booking & ancillary tech**  
OTAs, channel managers, reservation platforms tested under the same § 1595 framework.
- **Vicarious & negligent-hiring overlays**  
State-law claims piggy-backed on TVPRA — front-desk training, security staffing, housekeeping protocols.

# Hospitality & Franchise Models



## THE DEFENSES THAT HAVE PREVAILED

- **Lack of Knowledge/Control**
  - Cases involving franchisor liability – see, Choice Hotels Int. Inc., success on SJ. Standard is higher to hold franchisor accountable.
- **Liability requires more than a passive business relationship**
  - A.G. v. Northbrook Industries, Inc.: Eleventh Circuit decision, March 2026 – builds on Red Roof
- **Vicarious Liability/Negligent Hiring Claims**
  - “Scope of employment,” issues – when, how and where; proper training; “independent action,” not intended to benefit employer

## LIMITING LIABILITY FOR THE HOSPITALITY DEFENDANT

### Transportation – Cross Claims, Joinder Complaints

Better POV of those at risk for trafficking – the first line of defense

### Battle of the Experts

Identifying red flags



# Online Platforms & Tech Intermediaries

**The threshold question is no longer 'is there a TVPRA claim' — it is 'does Section 230 immunize the platform from this TVPRA claim?'**

FOSTA (2018) carved a narrow exception at 18 U.S.C. § 2421A and amended 47 U.S.C. § 230(e)(5). Scope of that exception is the central live issue across the circuits.

## LEADING AUTHORITY

- ***Doe v. Reddit, Inc.***  
51 F.4th 1137 (9th Cir. 2022) — FOSTA exception requires actual knowledge by the platform — high bar.
- ***Doe v. Twitter, Inc.***  
555 F. Supp. 3d 889 (N.D. Cal. 2021) — TVPRA beneficiary claim survived against platform on actual-knowledge allegations of CSAM tipline failure.
- ***Fleites v. MindGeek S.A.R.L.***  
617 F. Supp. 3d 1146 (C.D. Cal. 2022) — Adult-content platform and — briefly — the payment processor as co-defendants; reshaped the playbook.
- ***M.H. v. Omegle.com, LLC***  
9th Cir. and progeny — Product-defect / failure-to-warn theory as a path around § 230.

## PLAINTIFF-SIDE WORKAROUNDS

- **Plead actual — not constructive — knowledge**  
User reports, NCMEC referrals, internal trust-and-safety logs, repeat-offender data.
- **Frame the platform's own conduct**  
Algorithmic amplification, recommendation engines, monetization features as first-party conduct outside § 230.
- **Product-liability framing**  
Defective design / failure-to-warn — the Omegle line — treats the platform as a product, not a publisher.
- **Target the ecosystem**  
Hosting providers, payment processors, ad networks, app stores, identity verifiers — § 1595 reaches the venture's enablers.

# Online Platforms & Tech Intermediaries



## ONGOING DEVELOPMENTS

- **Sunset Section 230 Act**
  - Introduced in December 2025, proposes to eliminate or reform Section 230 of the Communications Act of 1934 on December 31, 2026, or two years after enactment.
- **May 13 – Senate Judiciary Hearing following the Meta Verdicts**
- **Industry Lobbying citing First Amendment Concerns**

## THE DEFECTIVE PRODUCT ANALYSIS

- **Traditional tort-based defenses become the focus**



# Financial Institutions

**\$290M**

**JPMorgan Chase Bank settlement**

*Doe 1 v. JPMorgan Chase Bank, N.A. (S.D.N.Y. 2023)*

**\$75M**

**Deutsche Bank settlement**

*Doe v. Deutsche Bank Aktiengesellschaft (S.D.N.Y. 2023)*

**BSA / SAR**

**Foundational red-flag record**

*Internal compliance documentation as evidentiary backbone*

## THE THEORY

Beneficiary liability under § 1595(a) for routine processing of trafficker accounts where the bank had — or should have had — knowledge from its own AML/BSA monitoring. **Suspicious Activity Reports become the plaintiff's roadmap.**

## WHAT COMES AFTER EPSTEIN

- Correspondent banks and wealth-management arms with high-net-worth offenders
- Payment processors and card networks (Visa briefly named in Fleites)
- Crypto exchanges and on-ramps with KYC failures
- Money-transmitter and remittance services

**Practical note:** Bank defendants now expect to see § 1595 claims pleaded alongside aiding-and-abetting theories. The Supreme Court's decision in *Twitter, Inc. v. Taamneh*, 598 U.S. 471 (2023), raised the bar for secondary liability but did not foreclose the beneficiary theory.



# Financial Institutions

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- **1595 Beneficiary Liability**
  - JP Morgan/Deutsche Bank involving Epstein, the 1591 evidence: Participation → structured cash withdrawals; Knowledge → news articles and police reports; Benefit → the obvious
  - Obstructing TVPRA Enforcement
  - How does this extend to 1595
- **The Aiding and Abetting Theory**
  - John Doe 1 v. Apple Inc., No. 21-7135 (D.C. Cir. 2024)
  - Traditional aiding and abetting
    - “Substantial assistance, with knowledge of wrongdoing”
    - Passive vs. Active



# Workplace & Professional Coercion

What used to be filed as a Title VII hostile-environment case is now increasingly filed as a TVPRA case — sometimes with the Title VII claim, sometimes instead of it. **Different burdens, different damages, different statutes of limitations.**

INDUSTRIES UNDER THE LENS	OVERLAPPING LEGAL THEORIES	WHY PLAINTIFFS PREFER TVPRA
<ul style="list-style-type: none"> <li>Strip clubs, adult-entertainment venues</li> <li>Massage parlors and spa networks</li> <li>Modeling, talent, and entertainment agencies</li> <li>Domestic-worker placement (au pair, nanny)</li> <li>H-2A / H-2B / J-1 visa-sponsored labor</li> <li>MLM and recruitment-pyramid structures</li> <li>Religious organizations and faith-based programs</li> </ul>	<ul style="list-style-type: none"> <li>TVPRA forced labor (§ 1589) and sex trafficking (§ 1591) parallel counts</li> <li>Title VII quid pro quo / hostile environment — same operative facts</li> <li>FLSA wage-and-hour piggyback</li> <li>State wage-theft and human-trafficking statutes</li> <li>Civil RICO where multiple actors and an enterprise are present</li> <li>Negligent hiring / retention / supervision against the employer</li> </ul>	<ul style="list-style-type: none"> <li>10-year statute of limitations under § 1595(c)</li> <li>Treble damages and mandatory attorneys' fees</li> <li>No EEOC exhaustion requirement</li> <li>Reaches the venture's beneficiaries — broader defendant pool</li> <li>Federal jurisdiction without amount-in-controversy</li> <li>Stigma value of the trafficking allegation in settlement</li> </ul>



WHERE TO LOOK NEXT

# Property Owners & Other Frontiers

## Apartment & Multi-Family Owners

Repeated 911 calls, on-site brothel operations, lease-administration negligence — pleaded under TVPRA beneficiary theory and state landlord-liability statutes.

## Massage-Parlor Landlords

Commercial real-estate owners and management companies with knowledge of repeat tenant patterns; analogous to hotel-franchise theories.

## Truck Stops & Travel Plazas

Long predicted as the next hospitality analog; cases now filed against major travel-center chains under § 1595.

## Cryptocurrency & On-Ramps

KYC failures, mixers, and facilitating platforms; survivor restitution and § 1595 beneficiary claims being tested.

## Generative AI & CSAM Tools

Image-generation platforms, model hosts, and dataset curators — early complaints framing § 2421A and product-liability theories.

## Workforce & Staffing Agencies

Recruiters, staffing companies, and labor brokers in agriculture, hospitality, construction — § 1589 forced labor exposure.

**Common thread:** *Each category is being tested under the same § 1595 beneficiary architecture. The doctrinal moves we make in hotels and platforms today shape pleadings against landlords, exchanges, and AI hosts tomorrow.*



FOR EVERY SEAT IN THE ROOM

# Practical Takeaways

FOR PLAINTIFFS' COUNSEL	FOR DEFENSE COUNSEL	FOR IN-HOUSE & COVERAGE
<ul style="list-style-type: none"><li>• Plead the participation element with industry-specific facts — generalities lose at the 12(b)(6) stage.</li><li>• Map every paying entity in the venture, not just the named perpetrator and the obvious target.</li><li>• Use state-law analogs as fallback counts where the federal participation element is shaky.</li><li>• Build the should-have-known case from the defendant's own documents — training, audit, SAR, ESG.</li></ul>	<ul style="list-style-type: none"><li>• Drive the participation element on motion practice — that is where most cases are won or lost.</li><li>• Lock down privilege early on internal investigations — Upjohn warnings, defined scope, counsel direction.</li><li>• Treat compliance documents as exhibits, not artifacts — assume they will be produced and quoted.</li><li>• Reserve realistically: TVPRA = treble damages, fee-shifting, 10-year SOL. Title VII reserves don't price this case.</li></ul>	<ul style="list-style-type: none"><li>• Audit the categories above against your insureds — exposure exists outside hospitality.</li><li>• Compliance is shield and sword. Real, current, documented programs help; binders on shelves are roadmaps.</li><li>• Pressure-test 'abuse or molestation,' 'knowing conduct,' and intentional-acts exclusions against beneficiary-theory complaints — your co-panelists later today will dig in.</li><li>• Coordinate carriers and additional insureds early — franchise and venture structures fragment coverage.</li></ul>

*The unifying observation: every emerging defendant is being tested under the same § 1595 architecture. Read every decision in any one industry as precedent for the next.*



# Human Trafficking Civil Remedies

Legislation and Policy Considerations



# Politicization of Human Trafficking

- ▷ Topic elicits HUGE, emotional response
- ▷ Embraced across the aisle; no overt opponents and rare area of cooperation and agreement
- ▷ Hidden agendas
- ▷ Used as a tool (i.e., Pizzagate)



# Legislative/Regulatory Developments in Human Trafficking Civil Remedies

- ▷ TVPRA
- ▷ Publisher Liability
- ▷ Financial Responsibility



# The Anchor Legislation--TVPRA

- ▷ Current status
- ▷ Recent verdicts
- ▷ Trajectory of litigation



# Publisher Liability: The No Longer Safe Harbor

- ▶ Doe v. Backpage.com (USDC Mass/First Circuit)
- ▶ Courts held that Sec. 230 of the Communications Decency Act shielded Backpage from Liability—Posting and Structuring Ads was a “publisher function,” Backpage could not be sued for third party content
- ▶ Supreme Court denies cert
- ▶ Congress passes FOSTA-SESTA (Fight Online Sex Trafficking/Stop Enabling Sex Traffickers Act)
- ▶ Civil Cases, Criminal Seizure/Restitution: The Final Backpage Story



# Financial Responsibility Laws: Banks and Lending Orgs Join the Mix

- ▶ Anti-Money Laundering Act (2020)
  - Makes Trafficking a national priority
  - Banks face
    - Civil penalties--governmental (Bank Secrecy Act)
    - Regulatory enforcement
    - Civil suits—individual plaintiffs
- ▶ Rules continue to be strengthened by FinCEN since



## Policy Considerations

- ▶ Victims/Survivors need compensation in order to rebuild their lives
- ▶ Defendants should not be held to an impossible standard



# Compliance: Best Practices for Institutions



# Purpose & Framing

Shift from “who is liable” and under what statute and related regulatory regime to what records are needed to show a proactive effort to identify and reduce harms.

- Courts test whether risk signals were detected, escalated, and documented
- Institutions need to build an compliance trail before litigation starts
- Map industry-specific controls to predictable failure modes



# Cross-Industry Control Stack

- **Signal capture:** intake channels for complaints, alerts, and observations
- **Correlation:** connect repeat entities/locations over time (patterns)
- **Escalation triggers:** objective thresholds that force review/action
- **Decision logging:** who decided, when, why, and what happened next
- **Oversight:** independent testing, audits, and corrective action tracking



# Hospitality & Lodging

- **Property incident ledger:** room/guest key logging of all “signals”
- **Red-flag thresholds:** repeat calls/complaints trigger mandatory review
- **Escalation playbooks:** Housekeeping + front desk empowerment (no supervisor bottleneck)
- **Audits:** corporate audits and oversight of escalation outcomes (not just training)
- **Record Keeping:** actions taken, referrals, denials, guest bans



# Online Platforms & Tech

- **Repeat-entity detection:** device/payment/identity linkage across accounts
- Behavior + content correlation (signals beyond “bad content” flags)
- Time-to-action metrics: SLA for review/removal/escalation by risk tier
- Moderation audit trails: reviewer, rationale, and evidence snapshot
- Risk-reducing design: rate limits, friction, and feature gating in hotspots



# Financial Institutions

- Alert-to-resolution traceability (every alert has an owned outcome)
- Trafficking typologies in monitoring (merchant + counterparty patterns)
- High-risk client governance: periodic reviews + documented decisions
- Case-file integrity: align internal memos, investigations, and reporting
- Independent testing focused on “false negatives” and escalation failures



# Labor / Employment / Workforce

- Recruiter/agency onboarding: verification beyond self-certifications
- Worker-origin audit trail: who recruited, what was promised, what was paid
- Placement-fee prohibition with audit rights + termination triggers
- Anonymous, multilingual grievance channels with non-retaliation controls
- Site audits that include worker interviews (not documentation-only reviews)



# Property Owners / Real Estate

- Central incident aggregation across units/tenants (complaints + calls)
- Escalation thresholds: defined triggers for investigation and response
- Lease controls: cooperation clauses, inspection rights, termination pathways
- Property management accountability: documented actions + periodic reporting
- Coordination protocol with law enforcement and service providers



# Cross-Industry Compliance Themes

- Siloed signals: data exists but no one connects it
- Discretionary escalation: “someone should have elevated” is not a system
- Thin documentation: actions cannot be reconstructed later
- Paper programs: training/policies without testing and corrective action



# Practical Takeaways

- Build a system that connects repeat signals to forced escalation
- Measure time-to-action and audit outcomes (not just completion rates)
- Document decisions like they will be read aloud to a jury
- Test for misses: run “red team” exercises and scenario drills
- Treat compliance as a living record—versioned, reviewed, and improved

**“Say what you do. Then do what you say.”**