



CALLAGY LAW, P.C.

650 From Road • Suite 240 • Paramus, NJ • 07652

Phone: 201-261-1700 • Fax: 201-261-1775

www.CallagyLaw.com • info@CallagyLaw.com

New York Office:

WeWork c/o
Callagy Law, PC
750 Lexington Ave.
New York, NY 10022
Phone: 929.436.000

Jersey City Office:

3000 John F. Kennedy Blvd
Suite 311
Jersey City, NJ 07306
Phone: 201.565.2344
Fax: 201.918.2039

Arizona Office:

1850 North Central Ave
Suite 1100
Phoenix, AZ 85004
Phone: 602.687.5844

Florida Office:

1900 NW Corporate Blvd
Suite 310W
Boca Raton, FL 33431
Phone: 561.405.7966
Fax: 201.549.8753

Partners

Sean R. Callagy

Michael J. Smikun
Thomas LaGreca
Brian P. McCann
Christopher Cavalli
Jeffrey L. Greyber
David L. Aromondo

*Our team of attorneys is
licensed to practice in one or
more of the following states:*

NJ, NY, AZ, TX, FL, PA,
NH, GA, DC, CA

June 3, 2022

Via ECF

U.S. Court of Appeals for
the Ninth Circuit

RE: *Jason Fyk v. Facebook, Inc.*, No. 21-16997

Appellant's Notice of Filing Supplemental Authority in
Further Support of Appellant's 5/25/22 Reply Brief [D.E. 23]

Dear your Honors:

I, along with Constance J. Yu, Esq., represent Plaintiff-Appellant, Jason Fyk ("Fyk"), in regards to the above-captioned matter. On May 25, 2022, Fyk filed his Reply Brief. Pursuant to Fed. R. App. P. 28(j) and 9th Cir. R. 28-6 (along with advisory committee notes), Fyk respectfully submits the following (which was learned of shortly after the filing of the Reply Brief) as supplemental authority in further support of his pending Reply Brief: *Jarkesy v. SEC*, No. 20-61007 (5th Cir. May 18, 2022), enclosed herewith for the Court's ease of reference.

This *Jarkesy* case deals with the mandate that Congress supply an intelligible principle where (as here) delegating administrative enforcement authority of a law. As this *Jarkesy* case concludes, if Congress does not supply an intelligible principle under such a delegation setting, then the law is unconstitutional. So, it is either Title 47, United States Code, all of Section 230(c) is governed by the overarching "Good Samaritan" intelligible principle (as Fyk's briefing argues, most recently his Reply Brief) or Section 230(c) is unconstitutional. Either way, Facebook cannot enjoy *carte blanche* 230(c)(1) immunity sans "Good Samaritan" threshold requirement; *i.e.*, as Fyk's briefing (most recently his Reply Brief) argues, the *Enigma* anti-competitive animus "Good Samaritan" threshold analysis applies to all of Section 230(c), not just Section 230(c)(2).

Undersigned hereby certifies that the above body of this letter does not exceed 350 words pursuant to Fed. R. App. P. 28(j) and 9th Cir. R. 28-6; indeed, the above body totals 214 words.

Respectfully Submitted,

/s/ Jeffrey L. Greyber

Jeffrey L. Greyber, Esq.

Callagy Law, P.C.

1900 N.W. Corporate Blvd., Ste 310W

Boca Raton, FL 33431

jgreyber@callagylaw.com

(561) 405-7966 (o)

(201) 549-8753 (f)

and

Constance J. Yu, Esq.

Putterman | Yu | Wang LLP

SBN 182704

345 California St., Ste 1160

San Francisco, CA 94104-2626

cyu@plylaw.com

(415) 839-8779 (o)

(415) 737-1363 (f)

Attorneys for Plaintiff-Appellant, Fyk

Enclosure (*Jarkesy v. SEC*)