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*Counsel for Defendant Google LLC*

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

Samantina Zenon,

Plaintiff,

v.

Google, Inc. and Reckon Media LLC,

Defendants.

Index No. 23-cv-10352

**NOTICE OF REMOVAL**

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Google LLC<sup>1</sup> (“Google”) hereby removes the above-captioned action from the Civil Court of New York City, County of New York, in which it is now pending, to the United States District Court for the Southern District of New York. The grounds for removal are as follows:

**BACKGROUND**

1. Defendant Google LLC is a Delaware limited liability company with its principal place of business in Mountain View, California.

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<sup>1</sup> Plaintiff improperly named “Google Inc.” as a Defendant. The entity’s current name is “Google LLC.”

2. Co-Defendant Reckon Media LLC (“Reckon Media”) is, on information and belief, a Delaware LLC (File No. 5970139), with its principal place of business in Dallas, Texas.

3. Plaintiff Samantina Zenon is a citizen of the State of New York residing at 43-10 48th Ave. Apt 1F, New York, New York 11377.

4. On August 24, 2023, Plaintiff filed a Complaint against Google in the Civil Court of New York City, County of New York (the “Civil Court”), titled *Samantina Zenon v. Google, Inc. and Reckon Media LLC*, Index No. 014025 (the “State Court Action”). Plaintiff’s counsel signed a Summons associated with the State Court Action on September 11, 2023. A true and correct copy of the Summons and Complaint is attached as Exhibit A.

5. Google first received a copy of the Summons and Complaint via personal service on November 7, 2023.

6. Plaintiff alleges that she was a victim of a scam committed by Reckon Media, which posted an advertisement on Google’s search engine. She brings this action against Google on the purported grounds that it “allow[ed third-party advertisers] to use [its] platform to continue to scam people.” Ex. A at ¶¶ 40-43. Plaintiff alleges that she was “damaged by Google’s conduct and she suffered money damages and her professional life has been ruined.” Ex. A at ¶ 76. Plaintiff seeks compensatory damages, punitive damages, plus interest, costs disbursements, and attorneys’ fees from Google, and injunctive relief. *Id.* at 7. Plaintiff does not request a specific amount of damages.

7. Based on Plaintiff’s allegations filed with the Civil Court, and for the reasons discussed below, Google is timely removing the State Court Action to this Court pursuant to 28 U.S.C. §§ 1332, 1441, and 1446.

**GROUND FOR REMOVAL**

8. This Court has jurisdiction over this action based on the diversity of citizenship between the parties and the matter in controversy plausibly exceeding \$75,000.

9. Under 28 U.S.C. § 1332(a)(1), “[t]he district court shall have original jurisdiction of all civil actions where [1] the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and [2] is between . . . citizens of different States[.]”

10. For purposes of Section 1332, “a corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business[.]” 28 U.S.C. § 1332(c)(1).

11. Both requirements of Section 1332 diversity jurisdiction are met in this case. First, there is diversity of citizenship between the parties. Plaintiff is a citizen of New York, whereas Google is a citizen of Delaware (where it is incorporated) and California (where it has its principal place of business). Plaintiff’s allegations indicate that Reckon Media is a citizen of Texas. Plaintiff alleges that it “is located at 1910 Pacific Ave. Suite #8025, Dallas, Texas 75201.” Ex. A at ¶ 3; *see also* <https://reckonmediallc.com/> (listing same address). Further, Delaware’s public website indicates that Reckon Media is incorporated in Delaware (File No. 5970139).

12. Second, Plaintiff does not request a specific amount in damages but claims that she “has been damaged by Google’s conduct and she suffered money damages and her professional life has been ruined.” Ex. A at ¶ 76. As a result, she seeks compensatory damages, punitive damages, and attorneys fees in the Complaint in addition to injunctive relief. Thus, there is a reasonable probability that the amount in controversy exceeds \$75,000. *See also* 28 U.S.C. § 1446(c)(2).

13. Additionally, there is no indication that Defendant Reckon Media, LLC has been properly served or joined in this action, and accordingly does not need to consent to removal. 28 U.S.C. § 1441. In fact, Plaintiff's allegations suggest that she does not believe it to be a bona fide entity. Ex. A ¶ 59 (“[a]ccording to Wikipedia, Reckon Media LLC does not exist”).

14. Accordingly, this Court has subject-matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(1).

### **VENUE AND PROCEDURAL REQUIREMENTS**

15. Venue lies in the United States District Court for the Southern District of New York because Plaintiff's State Court Action was filed and is pending in the Civil Court of New York, which is within this federal judicial district and division. *See* 28 U.S.C. § 1446(a).

16. This Notice of Removal is timely because no more than 30 days have elapsed since Google first received the Summons and Complaint via service on November 7, 2023. *See* 28 U.S.C. § 1446(b)(1).

17. Upon receiving filed-marked copies of this Notice of Removal and Google's accompanying filings, such documents will be served upon Plaintiff and filed with the Clerk of the Civil Court. *See* 28 U.S.C. § 1446(d).

WHEREFORE, as all requirements of 28 U.S.C. §§ 1332, 1441, and 1446 have been met, Google respectfully requests that the action titled *Samantina Zenon v. Google Inc. et al.*, Index No. 014025, pending in the Civil Court of New York for the County of New York, be removed to this Court, and that this Court exercise its subject-matter jurisdiction over this action, and grant such other relief as the Court may deem just and proper.

Dated: November 27, 2023

Respectfully submitted,

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

By: /s/ Benjamin D. Margo

Benjamin D. Margo

Praatika Prasad

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*Counsel for Defendant Google LLC*

**CERTIFICATE OF SERVICE**

I, BENJAMIN D. MARGO, hereby certify that on November 27, 2023, I caused a copy of the above document to be served as follows:

**Via U.S. Mail and Email**

Alfred C. Constants III  
Constants Law Offices, LLC  
115 Forest Avenue, Unit 331  
Locust Valley, New York 11560  
Email: Constantslaw49@gmail.com

*Counsel for Plaintiff Samantina Zenon*

**Via U.S. Mail**

Reckon Media LLC  
1910 Pacific Ave., Suite #8025  
Dallas, Texas 75201

**Via Registered Agent**

Reckon Media LLC  
c/o Harvard Business Services, Inc.  
16192 Coastal Hwy  
Lewes, DE 19958

*Defendant*

Dated: November 27, 2023

Respectfully submitted,

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

By: /s/ Benjamin D. Margo

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*Counsel for Defendant Google LLC*

# **EXHIBIT A**

CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF NEW YORK

2023

Index No. 014025

SAMANTINA ZENON

Plaintiff,

-against-

GOOGLE, Inc. and  
RECKON MEDIA LLC,

Defendants,

SUMMONS

Plaintiff's Residence address:  
43-10 48<sup>th</sup> Ave. Apt.1F  
New York, New York 11377

The basis of the venue designated is:  
Both the defendant Google and the  
Plaintiff reside in New York, NY

Defendant Google Inc. located at 111 8<sup>th</sup> Avenue, New York, New York; and

Defendant Reckon Media LLC located at 1910 Pacific Ave., Suite #8025, Dallas, Texas

75201.

**YOU ARE HEREBY SUMMONED** to appear in the Civil Court of New York, County of New York, at the office of the Clerk of said Court at 111 Centre Street, New York and State of New York, within the time provided by law as noted below and to file your answer to the annexed complaint with the clerk; upon your failure to answer, judgment will be taken against you for the sum of \$\_\_\_ with interest thereon from the \_\_\_ day of \_\_\_, 2023, together with costs of this action. To the extent that you are served within 20 days after service of the Summons and Complaint, exclusive of the day of service, or within 30 days after the service is complete if this Summons is not personally delivered to you within the State of New York.

Dated: Locust Valley, New York  
September 11, 2023,

Yours, etc.  
Constants Law Offices, LLC.

/s/ Alfred C. Constants III  
By: Alfred C. Constants III  
Attorneys for the Plaintiff  
115 Forest Avenue, Unit 331



Locust Valley, New York 11560  
(516)200-9660  
Constantslaw49@gmail.com

CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF NEW YORK

Index No. 014025

SAMANTINA ZENON

Plaintiff,

COMPLAINT

-against-

GOOGLE, Inc. and  
RECKON MEDIA LLC,

Defendants,

Plaintiff, Samantina Zenon, appearing herein by her attorney, Constants Law Offices, LLC, complaining of the defendants, Google, Inc. and Reckon Media, LLC. alleges as follows:

**THE PARTIES AND VENUE**

1. Plaintiff, Samantina Zenon (Ms. "Zenon"), is a resident of the State of New York and can be located at 43-10 48<sup>th</sup> Ave. Apt 1F, New York, New York 11377.
2. The defendant, Google Inc. ("Google"), is located at 111 8<sup>th</sup> Avenue, New York, New York.
3. The defendant, Reckon Media LLC ("Reckon") is located at 1910 Pacific Ave. Suite #8025, Dallas, Texas 75201.
4. The venue is based upon the residence of Ms. Zenon as well as the New York office of Google.

**THE FACTS**

5. Samantina Zenon is an actress, mental health advocate and public speaker.
6. In 2020, Ms. Zenon was working with a publicist that advised her to create a wikipedia page as she was a public figure.
7. Like many people, Ms. Zenon visited the number one search site GOOGLE to find a business to help with her request.

8. The first business that came up as a sponsored post (Paid Ad) was "Wiki Professional Inc," that means they are running the ad on the google platform which they set up with google ads.

9. Ms. Zenon filled out a form on wiki professional inc website, shortly after, she received an email from Peter Johnson on April 27, 2020.

10. Peter Johnson wanted to schedule a call with her.

11. During the call, Peter Johnson stated that he had connections with many top tier media outlets like Buzzfeed a source that has over 50 million users, and that he will have his writers submit these articles for Ms. Zenon to these media outlets, so that her application to Wikipedia would be approved.

12. A follow up email from Johnson stated: "Hi Samantina, It was a pleasure speaking to you over the phone! As discussed, for 15 articles it will be \$2250, you can pay \$1000 upfront and the remaining \$1250 by May 13<sup>th</sup>."

13. Mr. Johnson also informed Ms. Zenon that she must make a down payment of \$550 before he starts working on the articles.

14. Ms. Zenon made 3 payments to Johnson via PayPal for a total \$2800.

15. Mr. Johnson consistently led Ms. Zenon on as if he was working on the articles.

16. During the last week of December 2020, Mr. Johnson informed Ms. Zenon his work was done and the wikipedia was approved.

17. When Ms. Zenon went and checked it out with Wikipedia, she noticed that her application had been deleted.

18. Ms. Zenon also noticed many wikipedia pages that were being deleted were by the same user "AfDed."

19. Upon further investigation Ms. Zenon noticed this user has been posting wikipedia since 2010 and they all have been deleted.

20. It became obvious to Ms. Zenon that she may have been scammed.

21. Ms. Zenon reached out to Johnson about her concerns; Mr. Johnson proposed that she pays him more money to resubmit her application.

22. Mr. Johnson also advertised that you would receive the 100% money back guaranteed if the job was not fulfilled.

23. After, Ms. Zenon filed a complaint with PayPal, the finance institute that Mr. Johnson used to receive the payments.

24. Ms. Zenon received a message from Mr. Johnson that she had opened a dispute for \$2800 for the publications that his team did for her profile.

25. Mr. Johnson reply: "If you will close your case then we can refund you as the money is already taken out from our account. We are not playing any games but trying to get your page live."

26. Paypal confirmed no money was taking out of their account and Mr. Johnson was lying.

27. Mr. Johnson was basically telling Ms. Zenon to close the dispute so that he can continue to use to PayPal as a payment method to scam consumers.

28. Mr. Johnson stated that Ms. Zenon's profile was live on the improvement portal of Wikipedia that is Everipedia.

29. Mr. Johnson stated that if she did not want us to work on the project, kindly let us know so we can refund her for the profile, which he never did.

30. Mr. Johnson retracted and stated the articles that his team created were on Top-Tier source list but were not major publications as there was a difference between one major publication cost and a minimum \$3000.

31. Mr. Johnson stated he created 15 top-tier sources for her profile and that is the reason why her profile was submitted and was also made live.

32. However, Wikipedia was asking them to provide more coverage for her profile on major platforms and trying to get her page live without this requirement.

33. When Ms. Zenon realized she had been scammed, she reached out for help to Google right away about the matter and someone from her law enforcement team replied: "if you think that a crime has been committed, you may wish to contact law enforcement, and law enforcement can contact Google".

34. Ms. Zenon then replied: "It's more than that, it's about the fact that Google is allowing a fake company who is probably not based in America to use their platform to scam people. They even stole \$10K from one person, that's absolutely ridiculous!".

35. That was the end of that conversation between Ms. Zenon and Google.

36. No one from Google reached out to investigate further.

37. Ms. Zenon even called their customer service.

38. Ms. Zenon spoke to an unpleasant young lady who was only concerned about selling her ads.

39. Ms. Zenon tried expressing the matter to the agent so that Google would know that she had been scammed and to stop it from happening to others, The agent was not interested in hearing her concern and hang up on Ms. Zenon.

40. For the last few years Ms. Zenon periodically searches for "Wiki Professional Inc" on Google to see if Google was still allowing them to use their platform to continue to scam people.

41. And yes, Google continued to give them a platform.

42. Wiki Professional Inc even changed their locations multiple times.

43. Although there are hundreds of reviews online from victims like Ms. Zenon, Google continues to give them a platform to steal from consumers.

44. This incident ruined Ms. Zenon reputation and her character assassination.

45. Ms. Zenon's former Ballet teacher, Kat, former NYC Ballet dancer referred her to a real professional, a man named Keith that created Ms. Kat's wikipedia for her so Keith would assist Ms. Zenon with her wikipedia request.

46. Keith shortly informed Ms. Zenon, he will not be able to create a wikipedia page for her, because she has been flagged on the wikipedia platform as a potential scam, and she will need to wait a few years before making another attempt.

47. Ms. Zenon Wikipedia page has never been created.

48. Ms. Zenon's reputation has been ruined.

49. Ms. Zenon lost nearly \$3,000.

50. Ms. Zenon found out the real name of the company is -Reckon Media ("Reckon").

51. Reckon created multiple fake websites to scam people.

52. Reckon operated under Wiki professional inc, wiki management inc and wikipedia services.

53. Reckon used these companies to run ads on google to scam consumers.

54. Reckon advertises that it is a ghostwriting, editing and a publisher.

55. In particular in the advertisement, Reckon states that:

Every great advancement is born out of a fascinating work of imagination. We will take that step forward for you. Every story deserves to be told and heard. Therefore, we invite you to experience the work of industry's most professional yet extremely innovative ghostwriters under our one single platform.

56. Again in their website, Reckon states:

If you're hoping to hire a ghostwriter that will deliver your work to its fullest — we're the goal for you! We have a group of stars and amazing ghostwriters whose information, mastery and expertise reach out into different distinctive territories of writing. With the right ghostwriting experts that have involvement in many subjects and different line of work—your troubles become easier to handle.

57. From innovative app solutions to providing expert insights and experience across wide range of marketing channels, Reckon has the ability and experience to handle it all according to their statements.

58. Reckon put money in Google's pocket and used their platform to scam hard working consumers.

59. According to Wikipedia, Reckon Media LLC does not exist.

60. While Reckon may have a location on Texas, Reckon has had multiple locations.

61. Reckon was in New York City, also in California, and Texas.

62. Because of Google's participation in allowing Reckon to use the advertisement, Reckon can use its scammer to obtain money and not pay for the services.

### **Count I**

#### **Fraud by Reckon (or Wikipedia Professionals Inc.)**

63. Plaintiff repeats, reiterates and realleges each allegation set forth above as if set forth fully herein.

64. Reckon (and/ or "Wikipedia Professionals Inc.") committed a material misrepresentation or omission of fact to Ms. Zenon that they would provide ghost writing so that Ms. Zenon could become legal for the Wikipedia.

65. The Reckon statements were made by the defendant with knowledge of their falsity.

66. Reckon's plan was to defraud Ms. Zenon.

67. Ms. Zenon reasonably relied upon Reckon's misrepresentations, which resulted in damages to Ms. Zenon.

## **Count II**

### **Google's Aiding and Abetting Reckon**

68. Plaintiff repeats, reiterates and realleges each allegation set forth above as if set forth fully herein.

69. Google and its employees aided and abetted Reckon's conduct, who was conducting a scam and who paid Google for its use in advertising.

70. Google aided Reckon by providing support and assistance for Reckon's scamming.

71. Notwithstanding Ms. Zenon's complaints about Reckon, Google did nothing to prevent this scammer from taking place.

72. Upon information and belief, other people identified that Reckon as a scammer.

73. Nonetheless, Google did nothing to remove the scammer from its advertising.

74. Google only needs money despite the fact that Reckon was scamming its customers.

75. Google knew that to allow Reckon to advertise, would bring in additional victims of Reckon's scamming.

76. Ms. Zenon has been damaged by Google's conduct and she suffered money damages and her professional life has been ruined.

## **Count III**

### **Conspiracy between Google and Reckon**

77. Plaintiff repeats, reiterates and realleges each allegation set forth above as if set forth fully herein.

78. Google knew that to allow Reckon to advertise, would bring in additional victims of Reckon's scamming.

79. Google's agreement with Reckon provided support for what Reckon demanded.

80. Google's conspiracy with Reckon created damages to Ms. Zenon for money as well as her professional life was also damaged.

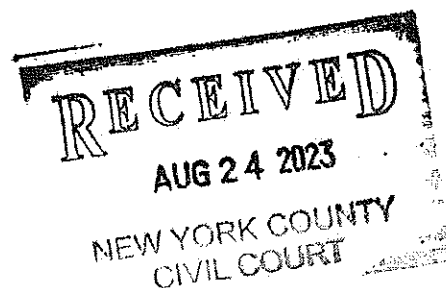
**WHEREFORE**, plaintiff demands judgment against Defendants in compensatory damages, punitive damages, that Google be prohibited from advertising Reckon Media LLC or any other entity that purports to be Reckon Media LLC., plus interest, costs disbursements, and attorneys' fees.

Dated: Locust Valley, New York

August 20, 2023

/s/ Alfred C. Constants III

By: Alfred C. Constants III  
Constants Law Offices, LLC  
Attorneys for Plaintiff  
Samantina Zenon  
115 Forest Avenue, Unit 331  
Locust Valley, New York 11560  
516-200-9660  
Constantslaw49@gmail.com





JS 44C/SDNY  
REV.  
10/01/2020

### CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

PLAINTIFFS  
Samantina Zenon

DEFENDANTS  
"Google, Inc." (Google LLC) and Reckon Media LLC

ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)  
Alfred C. Constants III, Constants Law Offices, LLC  
115 Forest Avenue, Unit 331, Locust Valley, New York 11560  
(516) 200-9660, Constantslaw49@gmail.com

ATTORNEYS (IF KNOWN)  
Benjamin D. Margo, Wilson Sonsini Goodrich & Rosati, P.C.  
1301 Avenue of the Americas, 40th Fl., New York, New York 10019  
Attorney for Defendant Google LLC

CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)  
(DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441, and 1446

Has this action, case, or proceeding, or one essentially the same been previously filed in SDNY at any time? No ☒ Yes ☐ Judge Previously Assigned

If yes, was this case Vol. ☐ Invol. ☐ Dismissed. No ☐ Yes ☐ If yes, give date \_\_\_\_\_ & Case No. \_\_\_\_\_

Is THIS AN INTERNATIONAL ARBITRATION CASE?

No ☒ Yes ☐

(PLACE AN [x] IN ONE BOX ONLY)

### NATURE OF SUIT

TORTS		ACTIONS UNDER STATUTES			
<b>CONTRACT</b>	<b>PERSONAL INJURY</b>	<b>PERSONAL INJURY</b>	<b>FORFEITURE/PENALTY</b>	<b>BANKRUPTCY</b>	<b>OTHER STATUTES</b>
[ ] 110 INSURANCE	[ ] 310 AIRPLANE	[ ] 367 HEALTHCARE/	[ ] 625 DRUG RELATED	[ ] 422 APPEAL	[ ] 375 FALSE CLAIMS
[ ] 120 MARINE	[ ] 315 AIRPLANE PRODUCT	PHARMACEUTICAL PERSONAL	SEIZURE OF PROPERTY	28 USC 158	[ ] 376 QUI TAM
[ ] 130 MILLER ACT	LIABILITY	[ ] 365 PERSONAL INJURY	21 USC 881	[ ] 423 WITHDRAWAL	[ ] 400 STATE
[ ] 140 NEGOTIABLE	[ ] 320 ASSAULT, LIBEL &	PRODUCT LIABILITY	[ ] 690 OTHER	28 USC 157	REAPPORTIONMENT
INSTRUMENT	SLANDER	[ ] 368 ASBESTOS PERSONAL			[ ] 410 ANTITRUST
[ ] 150 RECOVERY OF	[ ] 330 FEDERAL	INJURY PRODUCT	<b>PROPERTY RIGHTS</b>		[ ] 430 BANKS & BANKING
OVERPAYMENT &	EMPLOYERS'	LIABILITY	[ ] 820 COPYRIGHTS	[ ] 880 DEFEND TRADE SECRETS ACT	[ ] 450 COMMERCE
ENFORCEMENT	LIABILITY		[ ] 830 PATENT		[ ] 460 DEPORTATION
OF JUDGMENT	[ ] 340 MARINE	<b>PERSONAL PROPERTY</b>	[ ] 835 PATENT-ABBREVIATED NEW DRUG APPLICATION		[ ] 470 RACKETEER INFLU-
[ ] 151 MEDICARE ACT	[ ] 345 MARINE PRODUCT	[ ] 370 OTHER FRAUD	[ ] 840 TRADEMARK		ENCED & CORRUPT
[ ] 152 RECOVERY OF	LIABILITY	[ ] 371 TRUTH IN LENDING			ORGANIZATION ACT
DEFAULTED	[ ] 350 MOTOR VEHICLE				(RICO)
STUDENT LOANS	[ ] 355 MOTOR VEHICLE				[ ] 480 CONSUMER CREDIT
(EXCL VETERANS)	PRODUCT LIABILITY				[ ] 485 TELEPHONE CONSUMER
[ ] 153 RECOVERY OF	[ ] 360 OTHER PERSONAL	[ ] 380 OTHER PERSONAL	<b>LABOR</b>	<b>SOCIAL SECURITY</b>	PROTECTION ACT
OVERPAYMENT	INJURY	PROPERTY DAMAGE	[ ] 710 FAIR LABOR	[ ] 861 HIA (1395ff)	
OF VETERAN'S	[ ] 362 PERSONAL INJURY -	[ ] 385 PROPERTY DAMAGE	STANDARDS ACT	[ ] 862 BLACK LUNG (923)	[ ] 490 CABLE/SATELLITE TV
BENEFITS	MED MALPRACTICE	PRODUCT LIABILITY	[ ] 720 LABOR/MGMT	[ ] 863 DIWC/DIWW (405(g))	[ ] 850 SECURITIES/
[ ] 160 STOCKHOLDERS			RELATIONS	[ ] 864 SSID TITLE XVI	COMMODITIES/
SUITS			[ ] 740 RAILWAY LABOR ACT	[ ] 865 RSI (405(g))	EXCHANGE
[ ] 190 OTHER		<b>PRISONER PETITIONS</b>	[ ] 751 FAMILY MEDICAL	<b>FEDERAL TAX SUITS</b>	[ ] 890 OTHER STATUTORY
CONTRACT	<b>ACTIONS UNDER STATUTES</b>	[ ] 463 ALIEN DETAINEE	LEAVE ACT (FMLA)	[ ] 870 TAXES (U.S. Plaintiff or	ACTIONS
[ ] 195 CONTRACT		[ ] 510 MOTIONS TO		Defendant)	[ ] 891 AGRICULTURAL ACTS
PRODUCT	<b>CIVIL RIGHTS</b>	VACATE SENTENCE		[ ] 871 IRS-THIRD PARTY	[ ] 893 ENVIRONMENTAL
LIABILITY		28 USC 2255		26 USC 7609	MATTERS
[ ] 196 FRANCHISE	[ ] 440 OTHER CIVIL RIGHTS	[ ] 530 HABEAS CORPUS	[ ] 790 OTHER LABOR		[ ] 895 FREEDOM OF
	(Non-Prisoner)	[ ] 535 DEATH PENALTY	LITIGATION		INFORMATION ACT
		[ ] 540 MANDAMUS & OTHER	[ ] 791 EMPL RET INC		[ ] 896 ARBITRATION
			SECURITY ACT (ERISA)		[ ] 899 ADMINISTRATIVE
<b>REAL PROPERTY</b>	[ ] 441 VOTING	<b>PRISONER CIVIL RIGHTS</b>	<b>IMMIGRATION</b>		PROCEDURE ACT/REVIEW OR
[ ] 210 LAND	[ ] 442 EMPLOYMENT	[ ] 550 CIVIL RIGHTS	[ ] 462 NATURALIZATION		APPEAL OF AGENCY DECISION
[ ] 220 CONDEMNATION	[ ] 443 HOUSING/	[ ] 555 PRISON CONDITION	APPLICATION		
FORECLOSURE	ACCOMMODATIONS	[ ] 560 CIVIL DETAINEE	[ ] 465 OTHER IMMIGRATION		
[ ] 230 RENT LEASE &	[ ] 445 AMERICANS WITH	CONDITIONS OF CONFINEMENT	ACTIONS		
EJECTMENT	DISABILITIES -				
[ ] 240 TORTS TO LAND	EMPLOYMENT				
[ ] 245 TORT PRODUCT	[ ] 446 AMERICANS WITH				
LIABILITY	DISABILITIES -OTHER				
[ ] 290 ALL OTHER	[ ] 448 EDUCATION				
REAL PROPERTY					

Check if demanded in complaint:

☐ CHECK IF THIS IS A CLASS ACTION  
UNDER F.R.C.P. 23

DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.  
AS DEFINED BY LOCAL RULE FOR DIVISION OF BUSINESS 13?  
IF SO, STATE:

DEMAND \$ \_\_\_\_\_ OTHER \_\_\_\_\_ JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

Check YES only if demanded in complaint

JURY DEMAND: ☐ YES ☒ NO

NOTE: You must also submit at the time of filing the Statement of Relatedness form (Form IH-32).

(PLACE AN *x* IN ONE BOX ONLY)**ORIGIN**

- ☐ 1 Original Proceeding
 ☒ 2 Removed from State Court
 ☐ 3 Remanded from Appellate Court
 ☐ 4 Reinstated or Reopened
 ☐ 5 Transferred from (Specify District)
 ☐ 6 Multidistrict Litigation (Transferred)
 ☐ 7 Appeal to District Judge from Magistrate Judge
- ☒ a. all parties represented
 ☐ b. At least one party is pro se.
- ☐ 8 Multidistrict Litigation (Direct File)

(PLACE AN *x* IN ONE BOX ONLY)**BASIS OF JURISDICTION****IF DIVERSITY, INDICATE CITIZENSHIP BELOW.**

- ☐ 1 U.S. PLAINTIFF
 ☐ 2 U.S. DEFENDANT
 ☐ 3 FEDERAL QUESTION
 ☒ 4 DIVERSITY
- (U.S. NOT A PARTY)

**CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)**

(Place an [X] in one box for Plaintiff and one box for Defendant)

CITIZEN OF THIS STATE	PTF DEF <input checked="" type="checkbox"/> 1 <input type="checkbox"/> 1	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	PTF DEF <input type="checkbox"/> 3 <input type="checkbox"/> 3	INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	PTF DEF <input type="checkbox"/> 5 <input checked="" type="checkbox"/> 5
CITIZEN OF ANOTHER STATE	<input type="checkbox"/> 2 <input type="checkbox"/> 2	INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE	<input type="checkbox"/> 4 <input type="checkbox"/> 4	FOREIGN NATION	<input type="checkbox"/> 6 <input type="checkbox"/> 6

**PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)**

Samantina Zenon, 43-10 48th Ave., Apt. 1F, "New York" (Queens County), New York 11377

**DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)**

Google LLC, 1600 Amphitheatre Parkway, Mountain View (Santa Clara County), California 94043

Reckon Media LLC, 1910 Pacific Ave, Suite #8025, Dallas (Dallas County), Texas 75201

**DEFENDANT(S) ADDRESS UNKNOWN**

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

**COURTHOUSE ASSIGNMENT**

I hereby certify that this case should be assigned to the courthouse indicated below pursuant to Local Rule for Division of Business 18, 20 or 21.

Check one: THIS ACTION SHOULD BE ASSIGNED TO: ☐ WHITE PLAINS ☒ MANHATTAN

DATE 11/27/2023 /s/ Benjamin D. Margo

SIGNATURE OF ATTORNEY OF RECORD

RECEIPT #

ADMITTED TO PRACTICE IN THIS DISTRICT

☐ NO☒ YES (DATE ADMITTED Mo. June Yr. 2015)

Attorney Bar Code # BM2015

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge \_\_\_\_\_ is so Designated.

Ruby J. Krajick, Clerk of Court by \_\_\_\_\_ Deputy Clerk, DATED \_\_\_\_\_.

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

SAMANTINA ZENON,

Plaintiff,

v.

GOOGLE, INC. AND RECKON  
MEDIA LLC,

Defendants.

Index No. 23-cv-10352

**NOTICE OF APPEARANCE**

TO THE CLERK OF THIS COURT AND ALL PARTIES OF RECORD:

Please enter my appearance as counsel in this case for Defendant Google LLC (formerly Google, Inc.).

Dated: November 27, 2023

Respectfully submitted,

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

By: /s/ Benjamin D. Margo

Benjamin D. Margo

1301 Avenue of the Americas, 40th Floor

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*Counsel for Defendant Google LLC*

**CERTIFICATE OF SERVICE**

I, BENJAMIN D. MARGO, hereby certify that on November 27, 2023, I caused a copy of the above document to be served as follows:

**Via U.S. Mail and Email**

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115 Forest Avenue, Unit 331  
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Email: Constantslaw49@gmail.com

*Counsel for Plaintiff Samantina Zenon*

**Via U.S. Mail**

Reckon Media LLC  
1910 Pacific Ave., Suite #8025  
Dallas, Texas 75201

**Via Registered Agent**

Reckon Media LLC  
c/o Harvard Business Services, Inc.  
16192 Coastal Hwy  
Lewes, DE 19958

*Defendant*

Dated: November 27, 2023

Respectfully submitted,

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*Counsel for Defendant Google LLC*

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

SAMANTINA ZENON,

Plaintiff,

v.

GOOGLE, INC. AND RECKON  
MEDIA LLC,

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Index No. 23-cv-10352

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TO THE CLERK OF THIS COURT AND ALL PARTIES OF RECORD:

Please enter my appearance as counsel in this case for Defendant Google LLC (formerly Google, Inc.).

Dated: November 27, 2023

Respectfully submitted,

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

By: /s/ Praatika Prasad

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**CERTIFICATE OF SERVICE**

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*Counsel for Plaintiff Samantina Zenon*

**Via U.S. Mail**

Reckon Media LLC  
1910 Pacific Ave., Suite #8025  
Dallas, Texas 75201

**Via Registered Agent**

Reckon Media LLC  
c/o Harvard Business Services, Inc.  
16192 Coastal Hwy  
Lewes, DE 19958

*Defendant*

Dated: November 27, 2023

Respectfully submitted,

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*Counsel for Defendant Google LLC*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

---

SAMANTINA ZENON

Plaintiff(s)

- v -

**RULE 7.1 STATEMENT**

GOOGLE, INC. and RECKON  
MEDIA LLC

1:23-cv-10352

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Defendant(s)

Case Number

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Pursuant to Federal Rule of Civil Procedure 7.1, the undersigned counsel for

Defendant Google LLC (formerly Google, Inc.)

(a private non-governmental party or intervenor) certifies the following:

**Part I**

Complete this portion in all cases.

Identify any corporate affiliates, subsidiaries, and/or parent corporation and any publicly held corporation owning 10% or more of the stock of any non-governmental corporate party or intervenor. If there are no such corporations, the form shall so state.

Google LLC is a subsidiary of XXVI Holdings Inc., which is a subsidiary of Alphabet Inc., a publicly traded company; no publicly traded company holds more than 10% of Alphabet Inc.'s stock.

## Part II

Complete this portion only if jurisdiction is based on diversity of citizenship under 28 U.S.C. § 1332(a).

Name and identify the citizenship of every individual or entity whose citizenship is attributed to that party or intervenor for purposes of establishing jurisdiction based upon diversity of citizenship (note: the citizenship of an L.L.C. is the citizenship of each of its members).

Plaintiff Samantina Zenon is a citizen of the State of New York.

Defendant Google LLC is a subsidiary of XXVI Holdings Inc. XXVI Holdings, Inc. is a company incorporated in Delaware with its principal place of business in Mountain View, California. Accordingly, Google LLC is a citizen of Delaware and California.

Defendant Reckon Media LLC has its principal place of business in Dallas, Texas and is organized under the laws of Delaware. The undersigned cannot identify the members of Reckon Media LLC. There is no indication that Reckon Media LLC has been properly served in this action.

11/28/23

Date

s/ Benjamin D. Margo

Signature of Attorney

BM2015

Attorney Bar Code

Note – This form is required to be filed when the action is filed in, or removed to, federal court, and when any later event occurs that could affect the court’s jurisdiction under 28 U.S.C. § 1332(a).



**Constants Law Offices, LLC**  
**115 Forest Avenue, Unit 331**  
**Locust Valley, New York 11560**  
**(516) 200-9660**  
**Constantslaw49@gmail.com**

November 29, 2023

Magistrate Gary Stein, U.S.M.J.  
United States District Court, Southern District of New York  
New York, New York

re: Samantina Zenon v. Google, Inc and Reckon Media LLC  
Case No.: 23-cv-10352

Dear Magistrate Stein:

This law firm represents the plaintiff, Samantina Zenon ("Zenon"), in the above captioned matter and submits this opposition to defendant Google, Inc.'s ("Google") motion to remove the case to federal court. Google interprets the complaint as it sees fit, which is clearly erroneous.

Google has provided a copy of the complaint as Exhibit A to its motion. Nowhere in the legal argument does Google quote any of the paragraphs that define what money was spent by plaintiff on Reckon Media LLC ("Reckon"). If we review paragraphs 12-14, the plaintiff spent \$2,800 for Reckon's services. At paragraph 24, there was a dispute about the \$2,800.



At paragraph 30, Reckon states that there was a \$200 between one major publication and the cost of \$3,000. In paragraph 34, plaintiff states that Reckon "stole \$10K from one person, that absolutely ridiculous!" Again, Google's legal argument does not mention that at paragraph 49, the plaintiff lost "nearly \$3,000."

Thus, the damages in the complaint are listed under \$10,000. Notwithstanding her other damages, including loss of professional career, the damages are in the range of \$25,000. The damages do not equate to \$75,000., which is what Google wants to say to the Court. For purposes of removal, under 28 U.S.C. § 1332, the District Court should have the value of the claim at \$75,000 or more. This is not the case. There is nothing in the complaint that Google can manufacture such a result of value to remove this case from state court to federal court.

#### CONCLUSION

Based upon the foregoing, this Court should deny the removal action by Google as the damages are manifesting less than \$75,000.

Respectfully submitted,

Constants Law Offices, LLC

/s/ Alfred C. Constants III, Esq.  
Alfred C. Constant III, Esq.

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*Counsel for Defendant Google LLC*

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

SAMANTINA ZENON,

Plaintiff,

v.

GOOGLE, INC. and RECKON  
MEDIA LLC,

Defendants.

Case No. 1:23-cv-10352-LLS

**DEFENDANT GOOGLE LLC NOTICE OF MOTION TO DISMISS**

Pursuant to Federal Rule of Civil Procedure 12(b)(6), Defendant Google LLC (“Google”) hereby moves this Court for an Order dismissing with prejudice Plaintiff Samantina Zenon’s Complaint. In support of this Motion, Google relies on the accompanying Memorandum of Law in support.

Dated: December 4, 2023

Respectfully submitted,

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

s/ Benjamin D. Margo

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*Attorneys for Defendant Google LLC*

**CERTIFICATE OF SERVICE**

I, BENJAMIN D. MARGO, hereby certify that on December 4, 2023, I caused a copy of the above document to be served as follows:

**Via U.S. Mail and Email**

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Reckon Media LLC  
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**Via Registered Agent**

Reckon Media LLC  
c/o Harvard Business Services, Inc.  
16192 Coastal Hwy  
Lewes, DE 19958

*Defendant*

Dated: December 4, 2023

Respectfully submitted,

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*Counsel for Defendant Google LLC*

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

SAMANTINA ZENON,

Plaintiff,

v.

GOOGLE, INC. and RECKON  
MEDIA LLC,

Defendants.

Case No. 1:23-cv-10352-LLS

**MEMORANDUM OF LAW IN SUPPORT OF  
DEFENDANT GOOGLE LLC'S MOTION TO DISMISS**

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## INTRODUCTION

Defendant Google LLC (“Google”)<sup>1</sup> does not belong in this case. Plaintiff’s claims against it are barred as a matter of long-standing law.

Plaintiff Samantina Zenon alleges that she clicked on an advertisement created by Reckon Media LLC (“Reckon”) that she discovered through a Google search, communicated with the person responsible for the ad, and then paid the advertiser \$2,800 to create a Wikipedia page for her—that the advertiser never created. Plaintiff does not and cannot allege that Google created or contributed to the content of the advertisement or that it was otherwise involved in these events. Instead, Plaintiff charges that Google should be responsible for her losses because it improperly published the third party’s advertisement.

Plaintiff’s claim is foreclosed by the federal statutory immunity afforded to online services by 47 U.S.C. § 230 ( “Section 230” or “CDA”). Section 230 bars claims against services for “publishing” or enabling access to allegedly harmful content created by others. An unbroken line of dozens of cases have applied Section 230 to dismiss such claims, including numerous lawsuits involving third-party advertisements. That is true regardless of the labels the plaintiff attaches to their causes of action. Section 230 compels dismissal with prejudice of Plaintiff’s case.

Plaintiff’s claims also fail for independent reasons. *First*, Plaintiff’s allegations are conclusory, and do not rise to the level of plausibility required by federal pleading standards. *Second*, Plaintiff’s claim that Google “aided and abetted” Reckon’s fraudulent conduct fails because Plaintiff has not alleged any facts to show that Google had actual knowledge of any fraud or that it substantially assisted in the fraud. *Finally*, Plaintiff has not stated a claim for civil

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<sup>1</sup> Plaintiff improperly named “Google Inc.” as a Defendant. The entity’s current name is “Google LLC.”

conspiracy to defraud between Google and Reckon because she has not alleged any facts to show that both entities had a corrupt agreement or that Google intentionally acted in any manner to further that agreement.

### **BACKGROUND**

Google provides a variety of services to the public through its website located at [www.google.com](http://www.google.com), including an automated search engine. Generally, the links and text displayed in Google search results are pointers to content generated by third parties. Google also operates a self-service advertising platform, allowing third-party advertisers to place ads that appear in connection with search results.

Plaintiff commenced this action in the Civil Court of the City of New York, County of New York (“Civil Court”) on August 24, 2023<sup>2</sup> alleging that she was scammed by a third-party advertisement that “came up as a sponsored post (Paid AD) . . . on the google platform.” Compl. (ECF No. 1) ¶ 8. Plaintiff alleges that Google refused to “investigate” Plaintiff’s claims against the “fake company” using Google to “scam people” and “continue[d] to give them a platform to steal from consumers” resulting in Plaintiff “suffer[ing] money damages” and ruining “her professional life.” *Id.* ¶¶ 34; 36; 43; 76.

Notably, Plaintiff does not allege that Google had anything to do with the content of the ad itself. Indeed, Plaintiff’s Complaint largely consists of generalized allegations that parrot the elements of the causes of action alleged. *See, e.g., id.* ¶¶ 68-80. For example, Plaintiff claims that Google “aided and abetted Reckon’s conduct” but states no facts to plausibly allege that

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<sup>2</sup> Plaintiff’s counsel signed a Summons associated with the lawsuit on September 11, 2023. Google first received a copy of the Summons and Complaint via personal service on November 7, 2023.

Google did so. *Id.* ¶¶ 69-76. Similarly, Plaintiff claims that Google engaged in a conspiracy with Reckon but does not include facts to show how it allegedly did so. *Id.* ¶¶ 78-80.

Based on the conclusory allegation that Google failed to prevent Reckon from perpetuating an internet scam, Plaintiff asserts claims against Google for aiding and abetting and conspiracy. *Id.* ¶¶ 11-15. On that basis, she seeks compensatory and punitive damages, costs, fees, and injunctive relief preventing Google from allowing Reckon to advertise on its service. *Id.* at 7. These claims—which center on the allegation that “Google ... allow[ed] Reckon to advertise” (*id.* ¶¶ 75, 78)—fall within the heartland of Section 230 immunity.

## ARGUMENT

### I. PLAINTIFF’S CLAIMS ARE BARRED BY SECTION 230 OF THE COMMUNICATIONS DECENCY ACT

#### A. Congress Enacted Section 230 to Prevent Online Services From Being Held Liable for Content Created by Third-Parties.

Section 230 mandates that “[n]o provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.” 47 U.S.C. § 230(c)(1). The statute expressly preempts any state law claims that run afoul of this directive, providing that “[n]o cause of action may be brought and no liability may be imposed under any State or local law that is inconsistent with this section.” *Id.* § 230(e)(3); *see also Manchanda v. Google*, 2016 U.S. Dist. LEXIS 158458, at \*6-7 (S.D.N.Y. Nov. 16, 2016) (applying Section 230 and dismissing state law tort claims against Google and other search engine companies); *Finkel v. Facebook, Inc.*, 2009 N.Y. Misc. LEXIS 3021, at \*2-4 (N.Y. Cnty. Sup. Ct. Sept. 16, 2009) (dismissing “state law claims arising from third-party content” under Section 230). Courts have uniformly read this language to provide interactive computer services with broad immunity from claims that arise from third-party information posted on their platforms. *See Murawski v. Pataki*, 514 F. Supp. 2d 577, 591 (S.D.N.Y. 2007)

(dismissing claim that a search engine company allowed users to find an allegedly harmful third-party website, applying “the CDA’s broad immunity”); *Shiamili v. Real Estate Grp. of N.Y., Inc.*, 17 N.Y.3d 281, 288 (2011) (“Both state and federal courts around the country have ‘generally interpreted Section 230 immunity broadly.’”) (quoting *Universal Commc’n Sys. v. Lycos, Inc.*, 478 F.3d 413, 418 (1st Cir. 2007)).

Congress enacted the CDA to “preserve the vibrant and competitive free market that [existed] for the Internet.” *Ricci v. Teamsters Union Local 456*, 2014 U.S. Dist. LEXIS 59414, at \*5 (S.D.N.Y. Apr. 28, 2014) (citation omitted). Congress recognized that interactive service providers would be reluctant to make information available if doing so would expose them to liability for content created by others. *See Batzel v. Smith*, 333 F.3d 1018, 1020 (9th Cir. 2003). Accordingly, only those who originally create or develop content on the Internet may be sued in connection with such content; online service providers like Google that help make that content available to users via internet searches, or that publish third-party advertisements, are immune from such claims. *See, e.g., Ynfante v. Google LLC*, 2023 U.S. Dist. LEXIS 96074, at \*6 (S.D.N.Y. June 1, 2023) (Section 230 immunizes Google from claims based on advertisements created by third parties that appear next to search results); *Ripple Labs Inc. v. YouTube LLC*, 2020 U.S. Dist. LEXIS 218207, at \*17 (N.D. Cal. Nov. 20, 2020) (similar).

**B. Section 230 Immunizes Internet Companies Like Google From Claims Arising Out of Content Originating From a Third Party.**

Consistent with its text and purpose, “[b]oth state and federal courts around the country have generally interpreted Section 230 immunity broadly, so as to effectuate Congress’s policy choice ... not to deter harmful online speech through the ... route of imposing tort liability on companies that serve as intermediaries for other parties’ potentially injurious messages[.]”

*Shiamili*, 17 N.Y.3d at 288 (collecting cases, cleaned up). It is now beyond dispute that website operators “are shielded from liability arising from ... state-law claims that are premised on posts of, or links to, third-party content.” *Seldon v. Magedson*, 2012 U.S. Dist. LEXIS 141616, at \*56 (S.D.N.Y. July 9, 2012); *accord Ynfante*, 2023 U.S. Dist. LEXIS 96074, at \*6 (dismissing state law claims arising from third-party advertisements).

Courts in this circuit have embraced Section 230’s broad immunity in the same manner and have applied the CDA to dismiss a variety of claims, including some of the same claims asserted by Plaintiff in this case. *See, e.g., Force v. Facebook, Inc.*, 934 F.3d 53, 61 (2d Cir. 2019) (dismissing claims under Section 230 including aiding and abetting and conspiracy claims); *Brikman v. Twitter, Inc.*, 2020 U.S. Dist. LEXIS 170798, at \*8 (E.D.N.Y. Sep. 17, 2020) (dismissing claims under Section 230 including aiding and abetting defamation claim).

Subject to narrow exceptions that are inapplicable here,<sup>3</sup> Section 230(c)’s immunity forbids any claim that would hold an online service liable for hosting, posting, or linking to content created by a third party, regardless of the theory underlying the cause of action. *See* 47 U.S.C. § 230(e)(3) (“No cause of action may be brought and no liability may be imposed under any . . . law that is inconsistent with this section.”). “[W]hat matters is not the name of the cause of action—defamation versus negligence versus intentional infliction of emotional distress—what matters is whether the cause of action inherently requires the court to treat the defendant as the ‘publisher or speaker’ of content provided by another.” *Barnes v. Yahoo!, Inc.*, 570 F.3d 1096, 1101-02 (9th Cir. 2009).

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<sup>3</sup> Section 230 recognizes only a handful of exceptions. Prosecutorial enforcement of federal criminal laws is outside the ambit of immunity, as are civil claims for violation of the Electronic Communications Privacy Act, sex trafficking laws, and federal intellectual property rights. *See* 47 U.S.C. §§ 230(e)(1), (2), (4), and (5). None of these exceptions apply here.

Section 230 immunity also extends to the service provider’s decisions about how to treat potentially objectionable material—such as a decision not to take action against third-party advertisers as Plaintiff requested here. Section 230 “specifically proscribes liability” for claims which seek to hold a provider liable for decisions about monitoring, screening, or removing material—“actions quintessentially related to a publisher’s role.” *Ynfante*, 2023 U.S. Dist. LEXIS 96074, at \*6 (quoting *Green v. Am. Online (AOL)*, 318 F.3d 465, 471 (3d Cir. 2003)); *see also Murawski*, 514 F. Supp. 2d at 591 (“Deciding whether or not to remove content or deciding when to remove content falls squarely within Ask.com’s exercise of a publisher’s traditional role and is therefore subject to the CDA’s broad immunity.”). This includes claims against platforms like Google “for negligent publication of advertisements that cause harm to third parties.” *Barnes*, 570 F.3d at 1101; *Ynfante*, 2023 U.S. Dist. LEXIS 96074, at \*6 (dismissing claims against Google under CDA arising from display of alleged “scam advertisement”); *Wiener v. Miller*, 2023 U.S. Dist. LEXIS 175727, at \*3 (E.D.N.Y. Sep. 29, 2023) (dismissing claims under CDA where defendant advertised a home rental by “merely transmit[ing] information provided by third-party property owners”); *Calise v. Meta Platforms, Inc.*, 2022 U.S. Dist. LEXIS 76653, at \*9 (N.D. Cal. Apr. 27, 2022) (dismissing claims arising from alleged “deceptive advertisements” because CDA bars such claims); *Marshall’s Locksmith Serv. v. Google, LLC*, 925 F.3d 1263, 1267-72 (D.C. Cir. 2019) (affirming dismissal under the CDA of various claims against Google arising from the display of an alleged “scam” business in Google’s search results and maps services); *Rosetta Stone Ltd. v. Google Inc.*, 732 F. Supp. 2d 628, 632-33 (E.D. Va. 2010) (finding Google “cannot be liable for the actions of third party advertisers” who place ads on its platform), *aff’d*, 676 F.3d 144 (4th Cir. 2012); *Goddard v. Google, Inc.*, 2008 U.S. Dist. LEXIS 101890, at \*18-20 (N.D. Cal. Dec. 17, 2008) (dismissing claims that Google failed to



protect consumers from fraudulent ads appearing on its platform, because such claims “would hold Google responsible for third-party content”); *Lasoff v. Amazon.com Inc.*, 2017 U.S. Dist. LEXIS 11093, at \*3-4, \*8-9 (W.D. Wash. Jan. 26, 2017) (dismissing claims against Amazon arising from ads for counterfeit products that violated Amazon’s policies, because “[t]he content ... is provided by third parties”), *aff’d*, 741 F. App’x 400 (9th Cir. 2018).

Claims for injunctive relief are equally barred. Courts consistently refuse to order interactive computer services to remove content authored by other information content providers. *See, e.g., Ben Ezra, Weinstein, & Co. v. Am. Online Inc.*, 206 F.3d 980, 983-86 (10th Cir. 2000) (holding that section 230 immunized a computer service provider from a suit for damages and injunctive relief); *Noah v. AOL Time Warner, Inc.*, 261 F. Supp. 2d 532, 540 (E.D. Va. 2003) (“Indeed, given that the purpose of § 230 is to shield service providers from legal responsibility for the statements of third parties, § 230 should not be read to permit claims that request only injunctive relief.”), *aff’d*, 2004 U.S. App. LEXIS 5495 (4th Cir. Mar. 24, 2004).

Finally, the application of Section 230(c) is appropriate at the pleading stage of a case. Indeed, immediate dismissal is especially warranted because Section 230 “immunity is an immunity from suit rather than a mere defense to liability and it is effectively lost if a case is erroneously permitted to go to trial.” *Nemet Chevrolet, Ltd. v. Consumeraffairs.com, Inc.*, 591 F.3d 250, 254-55 (4th Cir. 2009) (cleaned up). Courts therefore “aim to resolve the question of § 230 immunity at the earliest possible stage of the case because that immunity protects websites not only from ‘ultimate liability,’ but also from ‘having to fight costly and protracted legal battles.’” *Id.* at 255 (cleaned up); *see also Ricci v. Teamsters Union Local 456*, 781 F.3d 25, 28 (2d Cir. 2015) (CDA immunity supports dismissal if “the statute’s barrier to suit is evident from

the face of the complaint”); *Word of God Fellowship, Inc. v. Vimeo, Inc.*, 205 A.D.3d 23, 25-26 (N.Y. 1st Dep’t 2022) (same).

**C. Section 230 Bars Plaintiff’s Claims Against Google.**

Here, Plaintiff’s claims are barred by Section 230 because: (1) Google is a provider of “interactive computer service[s]”; (2) the allegedly harmful content originated from “another information content provider;” and (3) the claims seek to treat Google as a “publisher or speaker” of that third-party content. *See* 47 U.S.C. § 230(c)(1).

*First*, there can be no dispute that Google is a provider of an “interactive computer service.” The CDA defines “interactive computer service” as “any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server.” *Id.* 230(f)(2). Google’s search engine allows millions of users to find and share information on the Internet. It is a paradigmatic “interactive computer service.” *See Ynfante*, 2023 U.S. Dist. LEXIS 96074, at \*6 (“Google is the provider of an interactive computer service.”); *see also, e.g., Goddard*, 2008 U.S. Dist. LEXIS 101890, at \*5 (Google is an interactive computer service with respect to ads created by third parties); *Obado v. Magedson*, 2014 U.S. Dist. LEXIS 104575, at \*12 (D.N.J. July 31, 2014) (similar).

*Second*, the content in the allegedly fraudulent advertisement originated from “another information content provider.” 47 U.S.C. § 230(c)(1). The CDA defines “information content provider” as “any person or entity that is responsible, in whole or in part, for the creation or development of information provided through the internet or any other interactive computer service.” *Id.* § 230(f)(3). Thus, information is provided by “another information content provider” whenever the “defendant did not create or author the statement in controversy.” *Mmubango v. Google, Inc.*, 2013 U.S. Dist. LEXIS 24989, at \*6 (E.D. Pa. Feb. 22, 2013). Here, Plaintiff has not alleged that Google created or participated in the creation of the purported

advertisement that allegedly led to her being scammed. Nor can she. Like in *Ynfante*, the scam advertisement was allegedly “produced by a third party who then submitted the advertisement to Google for publication.” *Ynfante*, 2023 U.S. Dist. LEXIS 96074, at \*7. Specifically, Plaintiff alleges that the advertisement was created by Reckon—“another information content provider.” 47 U.S.C. § 230(c)(1); *see also* Compl. ¶¶ 34-61.

*Third*, each of Plaintiff’s claims attempts to treat Google as the publisher of the alleged offending content that was created by a third party. Plaintiff’s claims are all premised on the allegation that Google allowed the purported scam advertisement to remain on its platform. Compl. ¶¶ 41, 43, 75, 78. Thus, Plaintiff seeks to hold Google liable for its exercise of a “publisher’s traditional editorial functions,” such as “deciding whether to publish, withdraw, postpone, or alter content.” *Green*, 318 F.3d at 471 (cleaned up); *see also Ynfante*, 2023 U.S. Dist. LEXIS 96074, at \*6-7 (failing to “block a third-party advertisement for publication on its search pages” is “squarely within the exercise of a publisher’s role”).

Additionally, Google is protected regardless of whether it chose to remove or not remove the advertisement, even if Google was on notice that the advertisement was fraudulent as Plaintiff alleges. Compl. ¶¶ 33-39. Section 230 mandates that “Google cannot be held liable for failing to withdraw [a] statement once it has been published.” *Mmubango*, 2013 U.S. Dist. LEXIS 24989, at \*8.

Because all three elements for Section 230 immunity are satisfied here, Plaintiff’s claims against Google must be dismissed with prejudice.

## **II. PLAINTIFF’S CLAIMS SHOULD BE DISMISSED BECAUSE OF INCURABLE PLEADING DEFICIENCIES**

Although the Court need not go further, the individual claims against Google also fail because Plaintiff has not alleged sufficient facts to support either claim.

To withstand a 12(b)(6) motion to dismiss, the plaintiff must state the “grounds” of the allegations, which “requires more than labels and conclusions, and a formulaic recitation of a cause of action’s elements will not do.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007); *see also Pozo v. BlueMercury, Inc.*, 2023 U.S. Dist. LEXIS 135355, at \*4-5 (S.D.N.Y. Aug. 3, 2023) (same). Said differently, “[p]laintiffs must allege sufficient facts to nudge their claims across the line from conceivable to plausible.” *Ritani, LLC v. Aghjayan*, 970 F. Supp. 2d 232, 246 (S.D.N.Y. 2013) (cleaned up). Further, “allegations in a complaint must be complete enough to enable a reader to understand how each defendant was personally involved in the wrongdoing plaintiff is alleging.” *Id.* Even if read broadly, Plaintiff’s allegations fail to meet the *Twombly* standard.

**A. Plaintiff Fails to State a Claim Against Google for Aiding and Abetting Fraud.**

Plaintiff makes a conclusory allegation that Google aided and abetted Reckon’s allegedly fraudulent conduct. *See* Compl. at 6 (Count II: “Google’s Aiding and Abetting Reckon”). Yet Plaintiff fails to allege sufficient facts to support such a claim. “A complaint states a claim for aiding and abetting fraud by alleging, consistent with the heightened pleading standard of Rule 9(b): (1) a fraud; (2) the defendant’s actual knowledge of the fraud; and (3) the defendant’s substantial assistance to the fraud.” *Silvercreek Mgmt. v. Citigroup, Inc.*, 248 F. Supp. 3d 428, 442 (S.D.N.Y. 2017).

Even if Plaintiff had met the heightened pleading standard required to state a cause of action for fraud (which she has not), Plaintiff’s claim against Google for aiding and abetting that fraud must fail. “The burden of demonstrating actual knowledge, although not insurmountable, is nevertheless a heavy one.” *Chemtex, LLC v. St. Anthony Enters.*, 490 F. Supp. 2d 536, 546 (S.D.N.Y. 2007) (cleaned up). Here, Plaintiff has not met the heavy burden. Plaintiff does not

allege, as she must, that Google had “actual knowledge of the fraud” or that it “substantial[ly] assist[ed in] the [underlying] fraud.” *Silvercreek Mgmt.*, 248 F. Supp. 3d at 442. Instead, she merely claims that Google “aided Reckon by providing support and assistance” and “[n]otwithstanding Ms. Zenon’s complaints about Reckon, Google did nothing to prevent this scammer from taking place [sic]” and “did nothing to remove the scammer from its advertising.” Compl. ¶¶ 69-73. Notably, Plaintiff does not allege that Google had knowledge of the alleged fraud *before* Plaintiff was harmed. Notifying Google of the alleged fraud after Plaintiff had already suffered harm (*id.* ¶¶ 33-39) is not enough to show actual knowledge. *See Silvercreek Mgmt.*, 248 F. Supp. 3d at 442.

Further, Plaintiff has not shown that Google substantially assisted Reckon in the perpetuation of any fraud. “Substantial assistance requires the plaintiff to allege that the actions of the aider/abettor proximately caused the harm on which the primary liability is predicated.” *SPV OSUS Ltd. v. AIA LLC*, 2016 U.S. Dist. LEXIS 69349, at \*19 (S.D.N.Y. May 24, 2016) (cleaned up). “Merely pleading ‘but for’ causation is not enough.” *Id.* Additionally, “the mere inaction of an alleged aider and abettor constitutes substantial assistance only if the defendant owes a fiduciary duty directly to the plaintiff.” *Pomerance v. McGrath*, 124 A.D.3d 481, 485 (1st Dep’t 2015) (cleaned up); *see also Calcutti v. SBU, Inc.*, 273 F. Supp. 2d 488, 494 (S.D.N.Y. 2003) (“It is well settled that without an independent duty to disclose, mere inaction does not amount to substantial assistance for purposes of determining aider and abettor liability.”).

Plaintiff’s claims regarding Google involve mere inaction on the part of Google—not substantial assistance. Compl. ¶¶ 41-43. And, at most, Plaintiff’s allegation that Google harmed her by “[doing] nothing to prevent this scammer” (*id.* ¶ 71), is a “but-for” theory of causation. *See SPV OSUS*, 2016 U.S. Dist. LEXIS 69349, at \*19 (dismissing aiding and abetting claim

where allegation was limited to a but-for theory of causation). This allegation is not sufficient to show substantial assistance, especially given that there are no allegations that Google owes a fiduciary duty directly to the Plaintiff (nor can there be). *See Dyroff v. Ultimate Software Grp., Inc.*, 934 F.3d 1093, 1101 (9th Cir. 2019) (“No website could function if a duty of care was created when a website facilitates communication, in a content-neutral fashion, of its users’ content.”); *Klayman v. Zuckerberg*, 753 F.3d 1354, 1359-60 (D.C. Cir. 2014) (no special relationship between social media company and its users).

**B. Plaintiff Fails to State a Claim Against Google for Conspiracy.**

To establish a claim for civil conspiracy to defraud under New York law, a plaintiff must state a claim for fraud and also show the elements of a conspiracy: “(1) a corrupt agreement between two or more parties; (2) an overt act in furtherance of the agreement; (3) the parties’ intentional participation in the furtherance of a plan or purpose; and (4) resulting damage or injury.” *Cagan v. Gadman*, 2012 U.S. Dist. LEXIS 44250, at \*14-15 (E.D.N.Y. Mar. 28, 2012) (cleaned up). “[T]o survive a motion to dismiss, a complaint must contain more than general allegations in support of the conspiracy [to defraud]. Rather, it must allege the specific times, facts, and circumstances of the alleged conspiracy.” *Brownstone Inv. Grp., LLC v. Levey*, 468 F. Supp. 2d 654, 661 (S.D.N.Y. 2007) (cleaned up) (citing Fed. R. Civ. P. 9(b)).

Here, though Plaintiff includes a “formulaic recitation of the elements of [her] cause of action,” *Twombly*, 550 U.S. at 555, she does not allege any facts to support it, much less the specific times, facts, and circumstances of the conspiracy she is attempting to allege. Compl. ¶¶ 77-80. For example, Plaintiff’s allegation that “Google’s agreement with Reckon provided support for what Reckon demanded” (*id.* ¶ 79) does nothing to suggest that an agreement to defraud even existed, much less allege conspiracy to commit fraud with the heightened

particularity required under Federal Rule of Civil Procedure 9(b). That pleading failure alone requires dismissal of her conspiracy claim.

### **CONCLUSION**

For the foregoing reasons, Google respectfully requests that this Court dismiss Plaintiff's claims against Google with prejudice.

Dated: December 4, 2023

Respectfully submitted,

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

s/ Benjamin D. Margo

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*Attorneys for Defendant Google LLC*

**CERTIFICATE OF SERVICE**

I, BENJAMIN D. MARGO, hereby certify that on December 4, 2023, I caused a copy of the above document to be served as follows:

**Via U.S. Mail and Email**

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*Counsel for Plaintiff Samantina Zenon*

**Via U.S. Mail**

Reckon Media LLC  
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Dallas, Texas 75201

**Via Registered Agent**

Reckon Media LLC  
c/o Harvard Business Services, Inc.  
16192 Coastal Hwy  
Lewes, DE 19958

*Defendant*

Dated: December 4, 2023

Respectfully submitted,

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December 13, 2023

**VIA CM/ECF**

The Honorable Louis L. Stanton  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

**Re: *Samantina Zenon v. Google, Inc. et al.*, No. 1:23-cv-10352-LLS**

Dear Judge Stanton:

In reliance on the attached stipulation, Defendant Google LLC does not oppose Plaintiff's Motion to Remand (ECF No. 6).

Respectfully submitted,

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

s/ Benjamin Margo  
Benjamin Margo

*Counsel for Defendant Google LLC*

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

Samantina Zenon,

Plaintiff,

v.

Google, Inc. and Reckon Media LLC,

Defendants.

Case No. 1:23-cv-10352-LLS

**STIPULATION**

WHEREAS Plaintiff Samantina Zenon (“Plaintiff”) filed a Complaint against Defendants Google LLC<sup>1</sup> (“Google”) and Reckon Media LLC in the Civil Court of the City of New York, County of New York, captioned *Samantina Zenon v. Google et al.*, No. 014025 (the “Complaint”) (ECF No. 1-1) on August 24, 2023, filed the associated Summons on October 13, 2023, and executed service on November 7, 2023;

WHEREAS, on November 27, 2023 Google moved to remove the action to the United States District Court for the Southern District of New York pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 (ECF No. 1);

WHEREAS, on November 29, 2023, Plaintiff filed a motion to remand the case to state court on the ground that the amount-in-controversy requirement for diversity jurisdiction was not satisfied, arguing that “the damages are in the range of \$25,000” (ECF No. 6);

WHEREAS, the parties conferred and agreed that Google would not oppose the motion to remand if the amount in controversy was indeed \$75,000 or less, while reserving all other rights;

**NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED**, by and between the undersigned, that:

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<sup>1</sup> Plaintiff improperly named “Google Inc.” as a Defendant. The entity’s current name is “Google LLC.”

1. Plaintiff's damages in the above-captioned case, inclusive of compensatory and punitive damages, will in no event exceed \$75,000;
2. Google will not oppose Plaintiff's motion to remand the case to the Civil Court of the City of New York, County of New York.

Dated: December 13, 2023

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

/s/ Benjamin D. Margo

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*Counsel for Defendant Google LLC*

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

SAMANTINA ZENON,

Plaintiff,

v.

GOOGLE, INC. and RECKON  
MEDIA LLC,

Defendants.

Case No. 1:23-cv-10352-LLS

**CERTIFICATE OF SERVICE**

I, BENJAMIN D. MARGO, hereby certify that on December 13, 2023, I caused a copy of the following to be served on non-ECF participants as follows:

**Via U.S. Mail**

Reckon Media LLC  
1910 Pacific Ave., Suite #8025  
Dallas, Texas 75201

*Defendant*

Dated: December 13, 2023

Respectfully submitted,

WILSON SONSINI GOODRICH & ROSATI  
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s/ Benjamin D. Margo

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*Attorneys for Defendant Google LLC*

ORIGINAL

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 12/14/23

SAMANTINA ZENON,

Plaintiff,

- against -

GOOGLE, INC. and RECKON MEDIA LLC,

Defendants.

23 Civ. 10352 (LLS)

ORDER

On November 27, 2023, defendant Google, Inc.<sup>1</sup> ("Google") removed the present action from the Civil Court of New York City, to this Court, arguing that diversity jurisdiction exists because the parties are diverse and the amount of controversy exceeds \$75,000. (Dkt. No. 1). Plaintiff Samantina Zenon did not request a specific amount of damages in the Complaint but did request compensatory and punitive damages, injunctive relief, plus interest, costs disbursements, and attorney's fees from Google. Id. Based on those requests, Google argued that "there is a reasonable probability that the amount in controversy exceeds \$75,000." Id. Zenon filed a Motion to remand the case, arguing that her damages could not exceed \$75,000. (Dkt. No. 6).

The parties have now stipulated that Zenon will not seek

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<sup>1</sup> Defendant states that Google's current name is Google LLC, not Google Inc.



more than \$75,000 in damages and Google will not oppose Zenon's Motion to Remand. (Dkt. No. 9).

"'[F]ederal courts permit individual plaintiffs, who are the masters of their complaints, to avoid removal to federal court, and to obtain a remand to state court, by stipulating to amounts at issue that fall below the federal jurisdictional requirement,' so long as the stipulation is 'legally binding on all plaintiffs.'" Ma v. United Rentals (N. Am.), Inc., 2023 WL 4102684, at \*2 (S.D.N.Y. June 21, 2023) (quoting Standard Fire Ins. Co. v. Knowles, 568 U.S. 588, 595-96 (2013)) (alteration in the original). However, the Second Circuit has made "clear that a plaintiff cannot seek to deprive a federal court of jurisdiction by reducing her demand to \$75,000 or less once the jurisdictional threshold has been satisfied." Yong Qin Luo v. Mikel, 625 F.3d 772, 776 (2d Cir. 2010).

As there has been no clear showing that the amount in controversy will exceed \$75,000 and this Court has not yet assumed jurisdiction over the case, the Motion to Remand is granted.

So ordered.

Dated: New York, New York  
December 14, 2023

Louis L. Stanton  
LOUIS L. STANTON  
U.S.D.J.