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 10 **UNITED STATES DISTRICT COURT**
 11 **NORTHERN DISTRICT OF CALIFORNIA**
 12 **SAN FRANCISCO DIVISION**

13
 14 DONALD TRUMP, et al.,
 15 *Plaintiffs,*
 16 vs.
 17 TWITTER, INC., et al.,
 18 *Defendants.*

Case No. 3:21-cv-8378-TSH

**NOTICE OF INTERVENTION AND
 ADMINISTRATIVE MOTION TO SET
 DEADLINE FOR THE UNITED
 STATES' MEMORANDUM IN
 DEFENSE OF 47 U.S.C. § 230(C)**

Action Filed: July 7, 2021
 Trial Date: None Set

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 21 Under Federal Rules of Civil Procedure 5.1(c) and 24(a)(1), and in
 22 accordance with the authorization of the Acting Solicitor General of the United
 23 States, the United States hereby intervenes in this action for the limited purpose
 24 of defending the constitutionality of Section 230(c) of the Communications Decency
 25 Act of 1996 ("CDA") (Pub. L. No. 104-104, § 509, codified at 47 U.S.C. § 230(c)).

26 On July 9, 2021, Plaintiffs filed a Notice of Constitutional Question pursuant
 27 to Federal Rule of Civil Procedure 5.1. ECF No. 5. By order dated July 21, 2021,
 28

1 the U.S. District Court for the Southern District of Florida certified a
2 constitutional question to the U.S. Attorney General. ECF No. 18. On October 1,
3 2021, Plaintiffs filed a motion for preliminary injunction arguing, *inter alia*, that
4 Section 230(c) of the Communications Decency Act of 1996 is unconstitutional.
5 ECF No. 62. On November 4, 2021, the Court ordered that the United States may
6 file a notice of intervention by November 18, 2021. ECF No. 120.

7 The United States is entitled to intervene in this action under the Federal
8 Rules of Civil Procedure and by statute. Rule 5.1(c) permits the Attorney General
9 to intervene in an action where, as here, the constitutionality of a federal statute is
10 challenged. *See* Fed. R. Civ. P. 5.1(c). Rule 24 further permits a non-party to
11 intervene when the non-party “is given an unconditional right to intervene by a
12 federal statute.” Fed. R. Civ. P. 24(a)(1). The United States has an unconditional
13 statutory right to intervene “[i]n any action . . . wherein the constitutionality of any
14 Act of Congress affecting the public interest is drawn in question[.]” 28 U.S.C. §
15 2403(a). In such an action, “the court . . . shall permit the United States to intervene
16 . . . for argument on the question of constitutionality.” *Id.* Here, Plaintiffs have
17 “drawn in question” the constitutionality of 47 U.S.C. § 230(c), and the United
18 States has an unconditional right to intervene to defend the statute.

19 The United States respectfully moves for an order setting December 9, 2021
20 as the deadline for the United States to file its memorandum in defense of 47 U.S.C.
21 § 230(c). December 9 is the date that Defendants’ response to Plaintiffs’ motion for
22 preliminary injunction is due, *see* ECF No. 126, and the United States seeks to
23 align the briefing schedules for Defendants and the United States.

24 Undersigned counsel has conferred with counsel for Defendants about the
25 relief sought herein. Counsel for Defendants stated that Defendants consent to the
26 relief sought herein. Undersigned counsel contacted counsel for Plaintiffs on
27 November 16 and requested Plaintiffs’ position, but as of the date of filing,
28 Plaintiffs’ counsel has not provided that position.

1 WHEREFORE, the United States respectfully requests that the Court set
2 the deadline for the United States to submit its memorandum in defense of 47
3 U.S.C. § 230(c) as December 9, 2021.

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5 DATED: November 18, 2021 Respectfully submitted,

6 MICHAEL D. GRANSTON
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8 ERIC WOMACK
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11 Trial Attorney

12 By: /s/ Joshua M. Kolsky
13 JOSHUA M. KOLSKY

14 U.S. Department of Justice
15 Counsel for the United States of America