

Nos. 1-22-0465 and 1-22-0755

IN THE APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

KEITH MCCLELLAN,

Petitioner-Appellee,

v.

BRIANNA HULL,

Respondent-Appellant.

On Appeal from the Circuit Court of Cook County, Illinois
County Department – Domestic Violence Division
Nos. 22 OP 60096 and 21 OP 60583
The Honorable Debra A. Seaton, Judge Presiding

**BRIEF OF *AMICI CURIAE* ADVOCACY ORGANIZATIONS
IN SUPPORT OF RESPONDENT-APPELLANT
BRIANNA HULL**

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INTERESTS OF THE *AMICI*

Amicus curiae The Network: Advocating Against Domestic Violence (“The Network”) is a collaborative membership organization that has been dedicated for the past ten years to improving the lives of those impacted by gender-based violence, through public policy and advocacy work, educational opportunities, connecting the public to services, and providing centralized resources to service providers in the domestic violence community for the past forty years. The Network is the leading systemic advocacy voice, in addition to being the forum for information exchange, within the Cook County gender-based violence services community. The Network examines the legal and social implications of policy impacting domestic violence, both locally and nationally. The Network also provides immediate connection to direct service providers with availability to support victims and survivors in need, in partnership with the City of Chicago’s Department of Family & Support Services through the Illinois Statewide Domestic Violence Hotline. The Network is uniquely positioned to stay abreast of, and respond to, survivor needs and trends affecting domestic violence service delivery and also helps shape public policy. The Network represents and unites the gender-based violence services community when its advocacy voice needs to be heard, and educates the public about the dynamics of domestic violence.

Amicus curiae the Chicago Alliance Against Sexual Exploitation (CAASE) is a not-for-profit that opposes sexual harm by directly addressing the culture, institutions and individuals that perpetrate, profit from, or support such harms. CAASE engages in direct legal services for survivors of sexual assault, prevention education, community engagement, and policy reform. One of CAASE's primary purposes is ensuring that victims' and survivors' rights are respected and upheld, including their rights to safety, consideration, and the ability to share their experiences as they choose to or not.

Amicus curiae the Illinois Coalition Against Domestic Violence ("ICADV"), is a not-for-profit organization founded in 1978 by twelve local domestic violence programs with the vision to eliminate violence against women and children, and to promote the eradication of domestic violence across the state of Illinois. Currently, ICADV funds fifty-five domestic violence programs across the state of Illinois, and last year ICADV member service providers collectively served 40,490 adult survivors of domestic violence and 7,364 child witnesses. ICADV's primary purposes are to provide state leadership as the voice for survivors of domestic violence and the programs that serve them, change fundamental and societal attitudes and institutions that promote, tolerate, or condone domestic violence, and ensure that women and children have knowledge of and access to all services and opportunities

endeavoring to promote these services locally. ICADV leads on legislative issues affecting domestic victims and agencies in Illinois and worked to pass the Illinois Domestic Violence Act in 1982. ICADV has an interest in preserving the intent of the Illinois Domestic Violence Act to provide comprehensive safety for survivors in Illinois.

Amicus curiae the Illinois Coalition Against Sexual Assault (“ICASA”) is a statewide non-profit organization comprised of thirty community-based rape crisis centers working together to end sexual violence and support survivors. The centers provide 24-hour crisis intervention services, as well as free counseling and advocacy for survivors of sexual assault and their significant others. In Fiscal Year 2022, ICASA-certified centers served over 11,000 survivors of sexual assault and sexual abuse and their significant others and provided more than 119,000 hours of services to clients and anonymous hotline callers. It is important to ICASA that survivors have access to what they need for healing, including the freedom to choose if, when, and how they want to speak about their experience with sexual assault. ICASA’s mission includes advocacy for public policy and laws that support victims and advance justice. To that end, ICASA has an interest in ensuring that laws meant to protect victims are not used as weapons against them by their offenders.

Amicus curiae Land of Lincoln Legal Aid (“Land of Lincoln”) is a non-profit whose mission is to provide free high quality civil legal services to low-income and senior residents in 65 counties of central and southern Illinois in order to obtain and maintain their basic human needs. Through advice, representation, advocacy, education, and collaboration, Land of Lincoln seeks to achieve justice for those whose voices might otherwise not be heard, to empower individuals to advocate for themselves, and to make positive changes in the communities it serves. For fifty years, Land of Lincoln has represented thousands of domestic violence survivors in seeking Orders of Protections, Civil No Contact Orders and Stalking No Contact Orders. It provides training on the Illinois Domestic Violence Act, the Stalking No Contact Order Act, and the Civil No Contact Order Act, to pro bono volunteers, and community education directly to survivors and as well as community partners. With its long history, Land of Lincoln is very familiar with the experiences of persons escaping and healing from sexual assault and domestic violence and the vital role the Illinois Domestic Violence Act plays in ensuring the safety of survivors.

Amicus curiae Legal Aid Society of Metropolitan Family Services (LAS) has offered free legal assistance to under-resourced populations for over 130 years. LAS is part of Metropolitan Family Services (MFS), a non-profit agency that delivers services related to education, economic

stability, and emotional wellness; together, LAS and MFS offer comprehensive support to clients throughout Cook and DuPage Counties. LAS currently offers a variety of legal services, including representation of survivors of gender-based violence in divorce and parentage cases and in requests to obtain orders of protection in both civil and criminal courts. In addition, LAS is regularly involved in systemic advocacy that addresses gender-based violence and other related issues. As an agency that works to improve the legal system's response to gender-based violence, LAS has a special interest in matters that impact survivors' ability to access safety and stability.

Amicus Curiae Life Span was established more than forty years ago to provide comprehensive services to survivors of domestic and sexual violence in Cook County, Illinois. Life Span's core services include advocacy, counseling, and legal representation in order of protection cases, civil no contact cases, family law, and immigration cases. Life Span also has a specialized program providing counseling, advocacy, and legal services to survivors of sex trafficking who have experienced domestic or sexual violence. In addition to its direct service work, Life Span has trained judges, prosecutors, mental health professionals, advocates and attorneys throughout Illinois and across the country on domestic and sexual violence, trauma and complicated family law/domestic violence litigation strategies and techniques. Life Span

engages in systemic and policy advocacy aimed at improving meaningful access to legal remedies and legal relief for victims of domestic violence. Based on decades of work to positively impact the treatment of survivors in the civil and criminal legal systems, Life Span has a strong interest in this case.

Amicus Curiae Mujeres Latinas en Accion (“Mujeres”), founded in 1973, is a bicultural nonprofit organization that is dedicated to providing social service and advocacy services centered around promoting non-violence, and supporting survivors of domestic and sexual violence through financial empowerment, civic engagement, leadership, and parenting programs. Through the programs Mujeres offers, survivors are able to recover from violence, become financially independent, and use their experience to advocate for change. Mujeres is the longest standing Latina-led organization in the country, and helps survivors heal from the violence they experienced through crisis intervention, individual and group counseling, therapy programs, and legal and medical advocacy. Because of its focus on Latina/x survivors, Mujeres works with many survivors who also identify as immigrants and children of immigrants. Mujeres is one of Chicago’s three rape crisis centers and Illinois’ only culturally specific rape crisis center. Mujeres has a special interest in ensuring that survivors of sexual violence are able to freely heal from trauma and are not restricted from sharing their

experience. Mujeres' hope is that survivors will not only heal but will lead efforts important in their lives and thrive in the communities where they live.

Amicus Curiae the National Crime Victim Law Institute ("NCVLI") is a nonprofit educational and advocacy organization located at Lewis and Clark Law School in Portland, Oregon. NCVLI's mission is to actively promote victims' voices and rights in the justice system through crime victim-centered legal advocacy, education and resource sharing. NCVLI accomplishes its mission through education and training of judges, prosecutors, victims' attorneys, advocates, law students and community service providers; providing legal assistance on cases nationwide; analyzing developments in crime victim law; and advancing victims' rights policy. As part of its legal assistance, NCVLI participates as *amicus curiae* in select state, federal and military cases that present victims' rights issues of broad importance. This is one of those cases as it involves the fundamental right to privacy and crime victims' right to be treated with respect for their privacy.

Amicus Curiae Prairie State Legal Services, Inc., (PSLS), a non-profit legal aid organization, provides free legal services to low income persons and those age 60 and over who have serious civil legal problems and need legal help to solve them. PSLS has eleven offices serving 36 counties in northern and central Illinois. For forty-four years,

representing survivors of domestic and sexual violence has been a major focus of PSLS's work. In 2021, PSLS assisted over 15,000 clients, over 2300 of whom sought help for domestic and/or sexual violence. PSLS primarily helped them in cases filed under the Illinois Domestic Violence Act (IDVA), 750 ILCS 60/1, et seq. In addition to representing clients, PSLS provides training on the IDVA and the Civil No Contact Order Act as well as other support for pro bono volunteers, community organizations, and agencies serving survivors of domestic and sexual violence. Through its long history of advocating for survivors of domestic and sexual violence PSLS has become very familiar with the experiences of persons needing additional protection as an order of protection expires and the various dynamics involved.

Amicus Curiae Resilience is a non-profit organization which provides crisis intervention, individual and group trauma therapy, and medical and legal advocacy in the greater Chicago metropolitan area to thousands of survivors each year. Resilience also provides public education and institutional advocacy in order to improve the treatment of sexual assault survivors and to effect positive change in policies and public attitudes toward sexual assault. Annually, Resilience works with thousands of survivors through its advocacy and trauma therapy services. Resilience has been providing support to survivors of sexual assault and abuse since 1974 and has a well-established reputation in

Chicago and Cook County as an expert on sexual victimization and trusted service provider. Resilience understands the impact of sexual violence on survivors and the rates with which survivors receive accountability for the harm suffered through criminal legal systems.

Amicus Curiae The Shriver Center on Poverty Law (Shriver Center) has a vision of a nation free from poverty with justice, equity, and opportunity for all. The Shriver Center provides national leadership to promote justice and improve the lives and opportunities of people with low income, by advancing laws and policies, through litigation, and legislative and administrative advocacy. The Shriver Center is committed to economic, racial, and gender justice, which includes advancing laws and policies that improve the lives and opportunities of sexual violence survivors.

SUMMARY OF ARGUMENT

The Circuit Court's Order ("Order"), issued pursuant to the Illinois Domestic Violence Act ("IDVA"), prohibits Respondent Brianna Hull from discussing on any social media platform the sexual violence to which she was subjected by Petitioner Keith McClellan. This Order is not only wrong, for the reasons articulated by Respondent, but also deeply problematic in preventing survivors of sexual violence from connecting with their communities and healing from the trauma they have experienced.

The Order acts as a vehicle to control how survivors share their experiences, which mirrors the control and restrictions often prevalent in gender-based violence and prevents survivors from accessing the tremendous benefits of healing from sexual violence by connecting to those with shared trauma. Sexual violence can have long-lasting effects for a survivor, including feelings of loneliness and isolation. Speaking about one's experience surviving sexual violence furthers a survivor's ability to connect with networks of support that one might otherwise be without, promotes the exchange of information and resources, and can facilitate healing in and of itself.

That Respondent's speech took place on social media—and during Sexual Assault Awareness Month no less—only adds to its value because social media has become an essential connector during a time when it can be difficult to connect in person due to the lingering effects of the COVID-19 pandemic. Moreover, because the internet in general and social media in particular offer expansive and low-cost capacity for communication of all kinds and for any number of audiences, these platforms are among the most important places to bring attention to pervasive issues for vulnerable populations—a modern public square. And social media is particularly useful during Sexual Assault Awareness Month, which was specifically created to raise awareness about sexual assault and further education and prevention for survivors

and communities. The vast democratizing forum of cyberspace has facilitated speech about issues like sexual violence that had previously gone largely unmentioned due to safety concerns or fear of retaliation. As the #MeToo movement illustrates, social media platforms are integral for survivors of sexual violence to tell their stories, associate with others with similar experiences, share how widespread sexual violence is in our society, and let struggling survivors know that they are not alone.

The Circuit Court's blanket ban on Respondent's sharing her trauma through social media in effect weaponizes the legal process against precisely the people the IDVA was enacted to protect—survivors of gender-based violence. If upheld, the Circuit Court's Order risks creating a blueprint for perpetrators of violence to seek to distort the IDVA into a vehicle for silencing and re-traumatizing those whom the statute was enacted to protect.

The Order cannot stand.

ARGUMENT

Perpetrators of sexual violence inflict an array of long-lasting physical and emotional harms on their victims, often without proportional legal consequences, leaving many survivors feeling anxious, afraid, isolated, and unsafe as they work to recover and redefine themselves. While every survivor's reaction to sexual violence is unique to their experience, the kind of story-telling that Respondent employed in this case is a well-recognized coping mechanism that allows survivors to share how sexual violence has impacted their life and empowers them to continue on the path to recovery and stand in solidarity with others who are newer to the healing process.

I. Sharing experience is fundamental to the healing process for survivors of sexual violence.

A victim who survives an act of sexual violence is left with several difficult and personal choices surrounding the negotiation of post-assault experiences, including how to cope, whom to tell, and where to seek help. Stephanie Madden & Rebecca A. Alt, *Know Her Name: Open Dialogue on Social Media As a Form of Innovative Justice*, *Social Media + Society* 1 (2021) (citing Amanda Konradi, *Preparing to Testify: Rape Survivors Negotiating the Criminal Justice Process*, 10 *Gender & Society* 404 (1996)). Survivors often do this while safety threats continue and are left to make decisions within the context of "society's responses to the assault, which often absolve the perpetrator of blame and

retraumatize victims.” *Id.* (quoting Sharon M. Wasco, *Conceptualizing the Harm Done by Rape: Applications of Trauma Theory to Experiences of Sexual Assault*, 4 *Trauma, Violence, & Abuse* 309, 312 (2003)).

Sexual assault is a severe violation of bodily autonomy that often affects the way survivors interact with their support systems, including causing struggles in subsequent relationships and creating an environment where survivors internalize feelings of worthlessness, shame, or detachment or create unsafe coping mechanisms. *Id.* (citing Wasco, *supra*, at 317 (in turn citing Rebecca Campbell et al., *An Ecological Model of the Impact of Sexual Assault on Women’s Mental Health*, 10 *Trauma, Violence, & Abuse* 225 (2009)); Emily Dworkin et al., [Sexual Assault Victimization and Psychopathology: A Review and Meta-Analysis](#), 56 *Clinical Psychology Review* 65 (2017)). Further contributing to challenges in healing from sexual assault, survivors tend to withdraw from loved ones and support systems around them that may otherwise provide comfort and peace. Dr. Lori Haskell & Dr. Melanie Randall, [The Impact of Trauma on Adult Sexual Assault Victims, Report to the Canadian Dep’t of Justice 8–9 \(2019\)](#). On issue after issue, the negative impacts of sexual violence substantially change how and to what extent survivors are able to interact with their loved ones or form new and healthy relationships.

As survivors navigate around and work through these barriers, many have identified sharing their own story and contributing to collective experiences as essential healing mechanisms for rebuilding after sexual trauma. See, e.g., [Survivor Stories, The Survivors Trust](#), (creating a space where survivors can share the violence they experienced and their journeys of healing). Studies indicate that sharing one's story—or even just hearing others' stories—helps survivors of sexual assault heal in meaningful ways and understand what life can look like after experiencing sexual violence.

First, having a space to share their experience with sexual violence allows survivors to connect to other survivors who are also processing the violence they experienced, as well as to allies and networks of support that they might otherwise be without. See [Stories, Our Wave](#) (allowing survivors of sexual violence to share their stories and offer words of support in response to stories shared); see also Deborah Tuerkheimer, *Beyond #MeToo*, 94 N.Y.U. L. Rev. 1146, 1176 (2019) (“Through the shared experiences of others, women are able to confirm both the accuracy of their understanding of the violation and the gravity of their complaint.”). And survivors of sexual violence routinely report that making inter-personal connections—particularly connections with other survivors of sexual violence—has been essential to their healing process. See Michael A. Belmonte, M.D., [Survivor, Not](#)

[*a Victim: My Story of Sexual Assault, in-House \(Apr. 2, 2020\)*](#), (sharing his own story of sexual assault in Chicago and noting “it is time to create a space for those who are ready to disclose and normalize the conversation for those who might not be”).

The nation’s largest anti-sexual violence organization, RAINN (Rape, Abuse & Incest National Network), highlights the powerful impact that can come from survivors sharing their stories and engaging on a platform for sharing survivor journeys. For example, Kelly Wallace is a survivor of sexual violence who shared her story with RAINN. [*Kelly’s Story, RAINN.org*](#). Through her healing journey, Kelly and a friend created Voices for Survivors, a podcast and reading series that highlights the voices of survivors of sexual assault. *Id.* Kelly explains that Voices for Survivors was important to her healing process because:

“[i]t’s really highlighted that I am not alone in my experience. There are so many of us. Getting to hear other voices has really helped me with identification because sometimes being a survivor can be really isolating. It can feel like I’m the only one who has gone through this but I know that’s not the case.”

Id.; see also [*Brad’s Story, RAINN.org*](#), (noting that Brad “found the community aspect of his treatment to be valuable because others provided support and understanding in moments when he felt most isolated”). The stories shared on the platforms created by RAINN, The Survivors Trust, and Our Wave are representative of the innumerable similar experiences shared by survivors who have benefited from having

others listen to their experiences, validate their feelings, and believe what they said.

Second, survivors speaking out about their experience with sexual assault promotes the exchange of information and resources, which can save lives of those experiencing ongoing violence or those struggling to recover from the violence they have experienced. *See Nat'l Inst. of Fam. & Life Advoc. v. Becerra*, 138 S. Ct. 2361, 2366 (2018) (“[I]n the fields of medicine and public health, information can save lives.”); [#One Conversation, Live Violence Free](#) (“Survivors can find strength and healing by telling their stories to others. Their insight and inspiration can save lives.”). One survivor’s decision to speak out can also produce a snowball effect, encouraging others to speak up about their own experiences with sexual violence. *See* Aubri F. McDonald, [Framing #MeToo: Assessing the Power and Unintended Consequences of a Social Media Movement to Address Sexual Assault, in Handbook of Sexual Assault and Sexual Assault Prevention 79–107 \(William T. O’Donohue & Paul A. Schewe eds., 2019\)](#); *see also* Madden & Alt, *supra*, at 4.

Third, telling one’s story can facilitate healing in and of itself. Given how powerful sharing their story can be, many gender-based violence organizations facilitate survivor speakers bureaus to create a space to elevate survivors’ stories. *See* [Survivor Speakers Bureau and](#)

[Testimonials, Boston Area Rape Crisis Center](#); [RAINN Speakers Bureau, RAINN.org](#); [Our Story, Capital Area Survivor Speakers Bureau](#), (with one survivor sharing that “what hurts sometimes more than the violence itself is the silencing of our truths by the very people and systems we look to for support”); [Join Empowered Voices, King County Sexual Assault Resource Center](#); [Voices Over Violence, Peace Over Violence](#) (“Not only has it allowed me to heal more each time I share my story, it has given a voice to those survivors who are unable or unwilling to come forward publicly.”).

Sharing one’s experience with sexual assault can give survivors the chance to define for themselves the sexual violence to which they were subjected. See Bonnie Birdsell, *Reevaluating Gag Orders and Rape Shield Laws in the Internet Age: How Can We Better Protect Victims?*, 38 Seton Hall Legis. J. 71, 88–89 (2014). By speaking up, survivors can reassert their agency in connection with an event in which they were stripped of agency. *Id.* “This kind of self-definition is important for victims in general, but it is especially important for victims of rape and sexual assault, who have historically been shamed and silenced by the rest of society.” *Id.*

II. Social media is an especially essential platform for survivors of sexual violence like Respondent.

While speaking out about an experience with sexual violence in any forum is beneficial, there are huge barriers for individuals who want

to speak out about their experience surviving sexual violence, particularly in traditional forums. See William T. O’Donohue, [Reporting Sexual Assault: Process and Barriers Victims Experience, in Handbook of Sexual Assault and Sexual Assault Prevention 591–608 \(William T. O’Donohue & Paul A. Schewe eds., 2019\)](#). In light of these challenges in sharing about sexual violence, placing additional barriers to Respondent’s communication of her experience in one of the most accessible settings—social media—severely curtails her ability to process and recover from the violence she experienced.

A. Survivors face significant barriers of connection in the wake of sexual violence.

Survivors of sexual violence often elect not to disclose their abuse due to fears concerning how they will be treated by members of the criminal justice system—including fear of not being believed or of being blamed for the assault. See O’Donohue, *supra*; see also Allie Jones, [Prosecutor Read Daisy Coleman Her Miranda Rights When She Reported Her Rape, The Atlantic \(Mar. 7, 2014\)](#). Survivors also fail to disclose sexual violence because they feel embarrassed or stigmatized, pitted against societal attitudes toward rape that pervade the criminal justice process. See O’Donohue, *supra*; see also Alana Prochuk, [We Are Here: Women’s Experiences of the Barriers to Reporting Sexual Assault, West Coast LEAF \(Nov. 2018\)](#) (discussing how socio-culture attitudes “minimize the seriousness of sexual assault and expose survivors to

blame, shame, skepticism, and stigma”). Indeed, as one commentator explained, “[t]elling the world you’ve been violated means mustering up faith that your words will be met with compassion, even though history shows us time and time again that victims are often blamed, not believed.” Caitlin Moscatello, [*In 2016, Social Media Made It Okay to Talk About Sexual Assault, The CUT*](#) (Dec. 13, 2016); see also Kendra Doty, “*Girl Riot, Not Gonna Be Quiet*”—*Riot Grrrl, #MeToo, and the Possibility of Blowing the Whistle on Sexual Harassment*, 31 *Hastings Women’s L.J.* 41, 42 (2020) (“Accusers experience drastic changes in their life as a result of publicizing their stories—many must move to avoid threats of violence, the publicity can be overwhelming, and becoming known as a survivor can take its toll.”).

Considering these significant concerns, the reporting rate for sexual violence is low. See, e.g., *Statistics*, Nat’l Sexual Violence Resource Center, <https://www.nsvrc.org/statistics>. In 2018, only an estimated 25% of sexual assaults were reported to police. *Id.*; see also Rachel E. Morgan et al., [*Criminal Victimization, 2016: Revised, U.S. Dep’t of Justice*](#) (Oct. 2018) (only 23.2% of rape or sexual assault were reported to the police in 2016). Additionally, when survivors do report, very few cases are prosecuted by law enforcement, further adding to survivors’ apprehension about reporting. See Chicago Alliance Against Sexual Exploitation, *Too Little, Too Late? The CPD’s Response to Sex*

Crimes 2010-2019 (Oct. 2020) (noting that “80 to 90 percent of sexual harm reports to the Chicago Police Department (CPD) over the past 10 years did not result in an arrest”).

Moreover, early discussion is important to the healing process. “The longer disclosures are withheld, the longer individuals live with the potentially serious negative effects that can follow” an experience with sexual violence. Ramona Alaggia & Susan Wang, [*“I Never Told Anyone Until the #MeToo Movement”: What Can We Learn from Sexual Abuse and Sexual Assault Disclosures Made Through Social Media?*](#), 103 [*Child Abuse & Neglect*](#) 104312 (May 2020) (noting that the mental health and physical health effects of sexual abuse and assault, including “depression, anxiety, trauma disorders, addictions, reproductive disorders, cardio-vascular disease and certain cancers,” are well documented). Thus, any tool that can help survivors of sexual violence overcome the barriers to and disincentives for disclosing an experience with sexual assault is important for survivors.

B. Social media breaks down barriers of connection amongst survivors of sexual violence.

Social media has proven to be especially therapeutic in helping survivors of sexual violence discuss their experiences. Take, for instance, the “modern-day reckoning” with sexual violence brought about by the #MeToo movement, which may well not have occurred but for the communicative possibilities of social media. *See, e.g.*, Lesley

Wexler et al., *#MeToo, Time's Up, and Theories of Justice*, 2019 U. Ill. L. Rev. 45, 45 (2019). It was on Twitter that actress Alyssa Milano's use of the #MeToo hashtag—in a post asking users to respond with the hashtag “if they had been sexually harassed or assaulted”—catapulted the movement to mass attention. *Id.* at 51–52.

The interactive space associated with this Tweet facilitated the ability of people “to raise their hands” by conveying a relatable message as opposed to “a call to action.” *Id.* at 52. And it was the hashtag—a form of communication made possible by and unique to social media—that made it easy for so many others to “start[] sharing details of their abuse across social media platforms.” *Id.*; see also Michelle R. Kaufman et al., *#MeToo and Google Inquiries into Sexual Violence: A Hashtag Campaign Can Sustain Information Seeking*, 36 J. Interpersonal Violence 19 (2019) (noting that 53,000 users had commented “and/or shared personal experiences of sexual violence” within 24 hours of Milano's Tweet); cf. Sophie Gilbert, [The Movement of #MeToo: How A Hashtag Got Its Power](#), *The Atlantic* (Oct. 16, 2017) (recounting how the #MeToo movement allowed women to stop defining their experiences with sexual violence “as something unspoken”).

Consider the important role that speaking on social media can play for survivors on an individual level. Imagine a woman struggling to cope in the wake of a traumatic sexual assault. Isolating herself from

support systems and loved ones,¹ she has felt alone, scared, angry, and powerless to find the resources she needs to heal and to stop the same thing from happening to others. Perhaps finding it easier than speaking out loud, she posts the following on social media:² “Earlier this year, I was sexually assaulted by someone I thought was a friend. I am a survivor.” Within minutes, dozens have validated her experience by “liking” the post or offering support. A day later, hundreds have done the same, offering links to resources and support groups and opportunities for national and local activism. Through her online engagement, the woman has found communities to support her healing, welcome her experience, and advocate with her for societal change. Olivia E. Bruss & Jennifer M. Hill, [*Tell Me More: Online Versus Face-to-Face Communication and Self-Disclosure*, 15 Psi Chi J. Undergraduate Research 3–7 \(Spring 2010\)](#).

These connections and affiliations—all made because of that one, initial post—are precisely the sort of connections that will allow the survivor to heal after experiencing sexual violence.

¹ Isolation is a common response from someone who has experienced violence and is struggling to heal. See Haskell & Randall, *supra*, at 8–9.

² See, e.g., Olivia E. Bruss & Jennifer M. Hill, [*Tell Me More: Online Versus Face-to-Face Communication and Self-Disclosure*, 15 Psi Chi J. Undergraduate Rsch. 3–7 \(Spring 2010\)](#).

C. Social media’s ability to break down barriers makes it an especially critical tool for victims of sexual violence who have been historically marginalized.

Social media not only breaks down barriers to communication for survivors of sexual violence, but also plays a pivotal role in elevating the historically silenced voices of women and people of color. It is no secret that “due to historic oppression and limitations on the speech of women and people of color, the speech of those most vulnerable . . . has often gone unheard.” Alyssa R. Leader, *A “Slapp” in the Face of Free Speech: Protecting Survivors’ Rights to Speak Up in the “MeToo” Era*, 17 First Amend. L. Rev. 441, 450 (2019). Social media has helped enable women and people of color “to thrive online” by allowing them “to amplify their own stories uncensored and on their own terms.” DeAnne Cuellar, [*Save Net Neutrality! It Enables Women and People of Color to Thrive Online and Amplify Their Own Stories—Uncensored and on Their Own Terms*](#), [Women’s Media Center \(Dec. 11, 2017\)](#).

In this vein, connection on social media can play an especially important role for Black, Indigenous, and other survivors of color. *See, e.g.,* Nhari Djan, [*The Power of Social Media: Instagram is Bringing Salvation to Assault Survivors*](#), [TheNewshouse.com](#) (Feb. 24, 2021),. These communities are less likely to report instances of sexual violence. *See, e.g.,* [*Black Women and Sexual Assault*](#), [National Center on Violence Against Women in the Black Community \(Oct. 2018\)](#) Social media can help Black, Indigenous, and other survivors of color have power over

how they heal from violence, overcome barriers to achieving justice (whether through the criminal justice system or other avenues), and access support and resources. *See* Djan, *supra*.

D. Social media allows survivors to speak, connect, and advocate for change on a larger scale than offline speech traditionally has done.

Social media allows survivors to affiliate with each other and with their allies more easily, more often, and on a larger scale than offline interactions might allow. *See e.g.*, McDonald, *supra*. Today, people assemble online via the internet and social media so routinely that the United States Supreme Court has recognized these forums of speech to form the “modern public square.” *Packingham v. North Carolina*, 137 S. Ct. 1730, 1737 (2017). By connecting online, whether through organized or informal interactions, individuals share their experiences with sexual violence and join forces for justice and change. And these online associations have meaningful impact:

Social media has proved to be a powerful vehicle for bringing women’s rights issues to the attention of a wider public, galvanising action on the streets of cities around the world and encouraging policy makers to step up commitments to gender equality The explosion of social media and unprecedented use by women of new technologies represents important opportunities to bring gender equality and women’s rights issues to the forefront of both policy making and media attention.

Estelle Loiseau & Keiko Nowacka, [*Can Social Media Effectively Include Women’s Voices in Decision-Making Processes?*](#), Organisation for Economic Co-operation and Development, Development Centre (Mar.

[2015](#)); *see also* Kelly Wallace, [After #MeToo, More Women Feeling Empowered, CNN.com \(Dec. 27, 2017\)](#) (“The ‘women’s movement’ has been swept into the mainstream and become more diverse, and social media has become increasingly effective at mobilizing younger generations of women and girls.”). In this way, survivors of sexual violence and their allies connecting online accomplish the sort of expression traditionally accomplished through in-person association.

Online connections through social media can also facilitate and promote offline events, like assemblies, demonstrations, or meetings. For instance, Take Back the Night Foundation, the oldest worldwide movement to stand against sexual violence in all forms—uses social media like Facebook, Twitter, and Instagram to promote its events. *See* [Take Back the Night Foundation, Global Virtual Next Event: Oct. 27, 2022](#). ValorUS, a national organization committed to advancing equity and ending sexual violence, does the same. *See* [Collective Action for Equity — Statewide Conference 2022](#).

Finally, social media is frequently utilized for the same purpose that Respondent used it for—to raise awareness about and encourage safety and prevention of violence during Sexual Assault Awareness Month (“SAAM”). SAAM is celebrated every April, during which time the National Sexual Violence Resource Center coordinates a national media campaign and related social media resources for survivors and

allies to share about awareness and prevention of sexual violence. [SAAM History, National Sexual Violence Resource Center](#). SAAM has helped expand the group of people thinking and talking about sexual violence beyond just survivors and advocates to people like parents, faith leaders, coaches, and friends.

Moreover, the annual SAAM campaign provides publicity and much-needed financial support for organizations that work to decrease sexual assault, support survivors, and advocate for public policy changes. [See Sexual Assault Awareness and Prevention Month, RAINN.org](#).

III. Prohibiting survivors from sharing their experience subverts the IDVA and harms the very people the Act was passed to protect.

The Circuit Court’s restraint on Respondent’s social media speech has an additional disturbing consequence: it incentivizes the weaponization of the legal process in general, and of the IDVA in particular, as a means to silence survivors of sexual violence. In this case, Respondent has explained that she had a legitimate and non-harassing purpose for tweeting her story, *see, e.g.*, Respondent-Appellant’s Br. at 16, but still Petitioner was able to use the legal process (and the IDVA) to silence her, *see id.* at 18–19.

In recent years, “[a]s more survivors have come forward to call out perpetrators of sexual assault and harassment” in greater numbers, those accused of such violence have increasingly enlisted courts to mute

their accusers' speech and chill that of others. See Madison Pauly, [*She Said, He Sued: How Libel Law is Being Turned Against MeToo Accusers*](#), [*Mother Jones*](#) (Mar./Apr. 2020); see also Shaina Weisbrot, *The Impact of the #MeToo Movement on Defamation Claims Against Survivors*, 23 CUNY L. Rev. 332, 335 (2020) (“A troubling number of cases illustrate that when survivors share stories of their abuse, the accused may respond with defamation claims, which are known as strategic lawsuits against public participation[.]”).

Such lawsuits are “filed with the intention of stopping someone from exercising his or her right to speak” and “without regard for whether the litigation will be successful. Instead, they seek to silence speech through the inconvenience and cost of litigation” and prevent others from coming forth “for fear of facing a lawsuit.” Leader, *supra*, at 447. Litigation thus becomes a “form of secondary victimization.” [*Weaponizing Defamation Lawsuits Against Survivors Violates International Human Rights*](#), Equality Now (Nov. 29, 2021).

One of the explicit purposes of the IDVA is to “[r]ecognize that the legal system has ineffectively dealt with family violence in the past, allowing abusers to escape effective prosecution or financial liability, and has not adequately acknowledged the criminal nature of domestic violence; [and] that, although many laws have changed, in practice there is still widespread failure to appropriately protect and assist victims[.]”

750 Ill. Comp. Stat. 60/102(3). Against this backdrop of historically ineffectual legal processes for victims, the IDVA was enacted to help victims of domestic violence “avoid further abuse” through court orders prohibiting abuse and reducing abusers’ access to victims. 750 Ill. Comp. Stat. 60/102(4). This purpose is defeated, however, if the IDVA can be weaponized by abusers against victims of gender-based violence.

The Order entered by the Circuit Court does precisely that by allowing an alleged *abuser* to obtain an injunction shutting off a *victim*’s essential process of healing through self-expression. Indeed, were it upheld, the Circuit Court’s Order would create a blueprint for abusers to transform the IDVA into a vehicle for silencing and re-traumatizing those whom the statute was enacted to protect. For all the reasons articulated in Respondent’s brief, her speech fell far short of the IDVA’s definition of harassment, *see* 750 Ill. Comp. Stat. 60/103(7), so the IDVA provides no authority for the Circuit Court’s blanket Order prohibiting Respondent from using social media to speak about the physical abuse she had suffered.

CONCLUSION

For the foregoing reasons, *amici curiae* urge this Court to reverse the Circuit Court’s Order prohibiting Respondent from discussing her experience with sexual violence over social media.

Dated: October 24, 2022

Respectfully Submitted,
THE NETWORK, ET AL.

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RULE 341(c) CERTIFICATE OF COMPLIANCE

I, Gabriel K. Gillett, an attorney, certify that this brief conforms to the requirements of Supreme Court Rules 345(b) and 341(a) and (b). The length of this brief, excluding pages containing the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, and the certificate of service, is 6,198 words.

/s/ Gabriel K. Gillett
Gabriel K. Gillett

IN THE APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

KEITH MCCLELLAN,)
) On Appeal from the Circuit Court of
Petitioner-Appellee,) Cook County, Illinois, County
) Department – Domestic Violence
v.) Division
)
BRIANNA HULL,) Nos. 22 OP 60096 and 21 OP 60583
)
Respondent-Appellant.) The Honorable Debra A. Seaton,
) Judge Presiding

NOTICE OF FILING

To: See attached Certificate of Service

PLEASE TAKE NOTICE that on October 24, 2022, I caused the **Brief Of *Amici Curiae* Advocacy Organizations¹ In Support Of Respondent-Appellant Brianna Hull** in the above captioned case to be submitted to the Clerk of the Illinois Appellate Court, First Judicial District by using the Court's electronic filing system.

Dated: October 24, 2022

Respectfully submitted,

By: /s/ Gabriel K. Gillett
One of the attorneys for *Amici Curiae*

Robert R. Stauffer
Gabriel K. Gillett
Jacob P. Wentzel
Savannah E. Berger

¹The Network: Advocating Against Domestic Violence, the Chicago Alliance Against Sexual Exploitation, the Illinois Coalition Against Domestic Violence, the Illinois Coalition Against Sexual Assault, Land of Lincoln Legal Aid, Legal Aid Society of Metropolitan Family Services, Life Span, Mujeres Latinas en Accion, the National Crime Victim Law Institute, Prairie State Legal Services, Inc., Resilience, and The Shriver Center on Poverty Law.

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