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# court rules “video game addiction” claims are barred by the first amendment and section 230

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A recent motion to dismiss order out of the United States District Court for the Northern District of Illinois is one of the first opinions substantively addressing tort claims based on alleged video game addiction. The decision in *Angelilli v. Activision Blizzard, Inc., et al.*, No. 23-CV-16566, 2025 WL 1181000 (N.D. Ill. Apr. 23, 2025), could in the future influence other cases considering the intersection among the First Amendment, Section 230 of the Communications Decency Act (“Section 230”), common-law tort principles, and allegations involving purportedly addictive interactive content.

The plaintiffs – Jaclyn Angelilli and her child “D.G.” – asserted that D.G. is addicted to video games. They brought various product liability, negligence, and misrepresentation claims against companies in various sectors of the video game industry. Among the defendants is Roblox Corp., the “creator and operator” of Roblox, an “online social gaming platform and game creation system that allows users to program games and play games created by other users.”

Roblox Corp. moved under Federal Rules of Civil Procedure 9(b) and 12(b)(6) to dismiss the plaintiffs’ claims against it, arguing, principally, that both the First Amendment and Section 230 bar the plaintiffs’ causes of action. In ruling on the motion, the court reached two key conclusions: (1) “Roblox Corp.’s own content is protected expression under the First Amendment”; and (2) “Section 230 bars Plaintiffs from predicating their addiction-related claims on Roblox’s social aspects,” including the use content created by other Roblox users. Consequently, “the operation of Section 230 and First Amendment together bar the majority of Plaintiffs’ claims.”

## attorneys

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## practice areas

entertainment & ip litigation  
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### **The Plaintiffs Allege that D.G. is Addicted to Video Games and that the Roblox Platform is Designed to Addict Users**

According to the plaintiffs' complaint, "D.G. began playing video games when he was six years old and at some point became addicted." As a result, the plaintiffs claim, D.G. suffers from "emotional distress, lost friends, and problems in school." Angelilli claimed that she has suffered harm as a "victim of [D.G.'s alleged] gamer's rage and [D.G.'s alleged] withdrawal symptoms." The plaintiffs contended that some of D.G.'s preferred games are accessed through the Roblox platform.

The plaintiffs further claimed that Roblox's "variety of player-created games and maps [...] enable an individual to feel happiness and pleasure when completed and therefore addict users quickly." The crux of plaintiffs' tort claims was that Roblox Corp. allegedly does not "adequately inform users of the inherent risks involved with using and playing Roblox or that the game was designed to addict and harm users."

The plaintiffs asserted nineteen causes of action, principally based on "allegations that Roblox is addictive," including the following: products liability for design defects, failure to warn, and failure to instruct (Counts I-VI); negligence (Counts VII-IX); intentional and negligent infliction of emotional distress (Counts X-XI); violations of the Illinois Consumer Fraud and Deceptive Business Practices Act (Count XII); violations of the Illinois Uniform Deceptive Trade Practices Act (Count XIII); fraudulent or negligent misrepresentation (Counts XIV, XV, and XVII); fraudulent inducement (Count XVI); and various "civil conspiracy and in-concert liability claims" (Count XVIII-XIX).

Roblox Corp. moved to dismiss the plaintiffs' claims under Rule 9(b) and Rule 12(b)(6).

### **The Court Rules that Content Created by Roblox Corp. is Protected by the First Amendment**

The court ruled that "Roblox Corp.'s own content" on the Roblox platform, including certain "characters, skins, and game creation tools," is "protected expression under the First Amendment." The court reiterated three key principles. First, the "First Amendment serves as a defense against claims that seek to attach liability to defendants for engaging in constitutionally protected speech." Second, the "First Amendment protects the dissemination of tools used for the preservation of information and ideas." Third, under *Brown v. Ent. Merchants Ass'n*, 564 U.S. 786 (2011), "[v]ideo games are recognized forms of protected expression."

Applying these principles, the court concluded that the "[p]laintiffs may not hold Roblox Corp. liable for offering game creation tools." Nor could the plaintiffs viably "premise liability on the fact that Roblox allows users to create avatars with different appearances and purchase different items for their characters." The court also took issue with plaintiffs' characterization of Roblox Corp.'s expressive activity as "addictive," opining "this just seems like another way of saying that Roblox's interactive features make it engaging and effective at drawing players into its world." In response, the court reiterated that "First Amendment protections do not disappear simply because expression is impactful." Indeed, "that is when First Amendment protection should be at its zenith."



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In addition, the court rejected plaintiffs' "argument that the First Amendment does not apply because" the plaintiffs' claims "target only conduct, not content." In the court's view, "what Plaintiffs complain of is the words and images that appeared on D.G.'s various gaming devices, and the effect that Plaintiffs believe those words and images had on D.G.'s brain and behavior," not any non-expressive conduct by Roblox Corp.. Such "words and images" are protected expression.

### **The Court Rules that, Under Section 230, Roblox Corp. Cannot be Held Liable for Content Created by Third-Party Users**

Roblox Corp. also argued that Section 230 bars all of the plaintiffs' claims based on content created by third-party Roblox users.

Section 230 provides that "[n]o provider . . . 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). An "interactive computer service" is "any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server." 47 U.S.C. § 230(f)(2). Citing *Webber v. Armslist LLC*, 70 F.4th 945 (7th Cir. 2023), the court observed that Section 230 "precludes liability ... where the success of [a plaintiff's] underlying claims requires the defendant to be considered a publisher or speaker of [third-party] content." Here, Roblox qualified as an "interactive computer service."

The plaintiffs argued, "Roblox players are able to interact with friends or other users in-game" and there is a "social aspect to Roblox that contributes to its addictiveness." Relying on precedent from other circuits, the court adopted the view that "Section 230 immunizes social media platforms from claims premised on the socializing effects and impacts of speech by the platform's users."

Therefore, between the First Amendment and Section 230, "the majority" of the plaintiffs' claims were barred.

### **The Court Rejected the Plaintiffs' Remaining "Claim-Specific" Arguments**

The gravamen of plaintiffs' negligence *per se* claim were purported violations of the Children's Online Privacy Protection Act, the Illinois Consumer Fraud and Deceptive Business Practices Act, the Illinois Uniform Deceptive Trade Practices Act, and the Illinois Biometric Information Privacy Act. The plaintiffs claimed that Roblox Corp. wrongfully obtained sensitive information from D.G. in violation of each statute. But "for violation of a statute to underpin a claim of negligence *per se*, the legislature must clearly intend to impose strict liability for violations of that statute." And each referenced statute requires a "heightened *mens rea*" such as "actual knowledge" or an "intent to defraud or mislead" for liability to attach. Such heightened *mens rea* requirements are "inconsistent with an intent to impose strict liability." Therefore, the plaintiffs failed to plausibly allege their negligence *per se* claims.

The court further ruled that the plaintiffs' fraud-based allegations failed to meet the heightened pleading standard of Federal Rule of Civil Procedure 9(b). Under that rule, fraud claims must be alleged with "particularity." Here, the plaintiffs merely alleged that Roblox Corp. falsely claimed that "Roblox provides a fun, supportive, and educational space where your child's imagination can thrive." The court agreed with Roblox Corp. that the



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statement is "nonactionable puffery because whether Roblox is fun, supportive, or educational are not assertions of fact that can be precisely determined." The court reached the same conclusion as to the plaintiffs' negligent misrepresentation claim, which was based on the same alleged statement.

In the end, the court dismissed all nineteen of the plaintiffs' claims, but granted leave to amend. The court, however, was "skeptical that Plaintiffs could amend their addiction-related claims such that they would not be foreclosed by Section 230 or the First Amendment."

### **Key Takeaways**

The *Angelilli* opinion is a victory for free-speech interests and is further confirmation that video games, like other forms of media, are entitled to strong First Amendment protection. Courts will likely continue to grapple with similar plaintiff theories, whether related to social media platforms, dating applications, interactive artificial intelligence, or video games. If courts follow the lead of *Angelilli*, even design decisions framed by plaintiffs as "conduct" intended to "addict"—as opposed to "content,"—may be protected by the First Amendment.

Mitchell Silberberg & Knupp LLP represents Take Two Interactive Software in the *Angelilli* litigation and will continue to watch litigation in this space as it develops.