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13 **UNITED STATES DISTRICT COURT**

14 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

15 JANE DOE, f/k/a KRISTY ALTHAUS,
16 an individual,

17 Plaintiff,

18 v.

19 AYLO GLOBAL ENTERTAINMENT
INC., a Delaware corporation; AYLO
20 USA INCORPORATED, a Delaware
corporation; AYLO BILLING US
21 CORP., a Delaware corporation;
ETHICAL CAPITAL PARTNERS, a
22 foreign entity; MINDGEEK S.A.R.L., a
foreign entity; MG FREESITES, LTD.,
23 d/b/a "PORN HUB," a foreign entity;
MINDGEEK USA INCORPORATED,
24 a Delaware corporation; 9219-1568
QUEBEC, INC., a foreign entity; and
25 MG BILLING US CORP., a Delaware
corporation),

26 Defendants.
27
28

Case No. 2:23-cv-7488 MWF (AGR_x)

**PLAINTIFF JANE DOE'S
RESPONSE IN OPPOSITION TO
DEFENDANTS AYLO GLOBAL
ENTERTAINMENT, AYLO USA
INCORPORATED, AND AYLO
BILLING US CORP.'S MOTION
TO STAY ACTION**

*Concurrently filed herewith the
Declaration of Lisa R. Marks*

Date: November 27, 2023
Time: 10:00 a.m.
Crtrm.: 5A

The Hon. Michael W. Fitzgerald

Trial Date: Not Set

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1 **I. INTRODUCTION**

2 Plaintiff Jane Doe, formerly known as Kristy Althaus, opposes the motion for
3 a stay of this action sought by Defendants Aylo Global Entertainment, Aylo USA
4 Incorporated, and Aylo Billing US Corp. (collectively “MindGeek”). MindGeek has
5 not met its burden to show that a Trafficking Victims Protection Reauthorization Act
6 (TVPRA) stay is warranted in this action. Federal authorities have chosen not to
7 intervene, and there is insufficient evidence of any pending “criminal action arising
8 out of the same occurrence.” 18 U.S.C. § 1595. The request for a stay is MindGeek’s
9 attempt to improperly delay this action indefinitely or for the foreseeable future,
10 which by law and in the interests of justice should not be allowed. MindGeek claims
11 to seek to delay this action for “a few additional months” while awaiting the criminal
12 sentencing of GirlsDoPorn (“GDP”) perpetrators Matthew Wolfe (“Wolfe”) and
13 Michael Pratt (“Pratt”). MindGeek claims it did not know or have reason to know of
14 GDP’s criminal conduct, and therefore needs relevant discovery of the GDP criminal
15 enterprise—neither claim is true. The Court should reject MindGeek’s arguments.

16 First, like GDP’s Andre Garcia (“Garcia”), Wolfe pled guilty for his
17 involvement in GDP’s crimes. After an extension of time was allowed for Wolfe’s
18 sentencing date, Wolfe’s sentencing is scheduled on January 22, 2024. *See* Defs.’
19 Mot., Mayer Decl. Ex. 1, at 11, 14. A guilty plea is a final adjudication and awaiting
20 sentencing does not constitute a pending criminal action. Moreover, Plaintiff already
21 stipulated to allow MindGeek a lengthy extension of time until January 2024 to submit
22 a collective response to the Complaint, thus providing ample time for discovery after
23 Wolfe’s sentencing. Marks Decl. ¶ 4. It is not necessary to stay this civil action due
24 to Wolfe’s guilty plea and sentencing in January 2024.

25 Additionally, MindGeek is well aware that GDP’s Pratt, unlike Wolfe, is a
26 fugitive that fled the United States years ago during the 2016 civil case against GDP,
27 was arrested in Spain in 2022, and is fighting extradition to the United States to face
28 his criminal prosecution. Pratt is still awaiting extradition. Marks Decl. ¶ 11. The

1 timing and length of the extradition process and any subsequent criminal proceedings
2 are unknown and speculative. Granting a stay by MindGeek, a civil defendant, on the
3 basis of Pratt fleeing the United States and subsequent detainment in Spain is neither
4 necessary nor just. A stay is not necessary for MindGeek to obtain information about
5 GDP or GDP’s crimes—such evidence is already known and available to MindGeek.
6 The GDP criminal enterprise was investigated by both civil attorneys and federal
7 authorities *years ago* and there is ample discovery, evidence, and judicial findings
8 available right now. *See* Compl. Exs. 1-4, 8a. Prior civil cases against both GDP and
9 MindGeek have been filed and resolved. MindGeek was issued a subpoena *duces*
10 *tecum* in the 2016 civil case and was a party to the 2020 civil action, which settled.
11 Compl. Exs. 3-4, 9. Any discovery against GDP has already been disclosed, litigated,
12 and adjudicated with significant factual findings by multiple courts, in both civil and
13 criminal proceedings.

14 More importantly, neither the United States Attorney’s Office (“USAO”) Southern
15 District of California (handling the GDP criminal cases) nor the USAO Eastern
16 District of New York (handling a deferred prosecution of MindGeek’s
17 involvement with GDP) have intervened in this action, or any civil action, to seek a
18 stay to protect the integrity of the investigation and/or prosecution of either GDP or
19 MindGeek. Marks Decl. ¶¶ 13, 14. The investigation of the GDP sex trafficking
20 venture has already occurred, dates back numerous years, and requires no stay of this
21 civil action. In fact, MindGeek is currently negotiating with the USAO Eastern
22 District of New York for a *deferral* of any criminal prosecution of itself for engaging
23 in unlawful monetary transactions relating to its dealings with GDP. Marks Decl.
24 ¶¶ 8-9. It defies justice to allow MindGeek to significantly delay Plaintiff’s civil
25 action, claiming it has no knowledge and needs discovery, while ample discovery is
26 known and available to the parties, and while MindGeek is actively negotiating a
27 *deferred prosecution agreement* based on its own conduct, so it has no pending related
28 criminal action against it. MindGeek’s Motion should thus be denied.

1 **II. STATEMENT OF FACTS**

2 This lawsuit arises from MindGeek’s willful involvement in the GDP sex
3 trafficking venture and its independent hosting, distributing, and advertising of the
4 unlawful content. MindGeek earned millions of dollars at the expense of human life,
5 human rights, and human dignity. Compl. ¶ 8. Despite its actual or constructive
6 knowledge that GDP used force, fraud, and coercion to film young women in
7 pornographic videos, MindGeek continued to offer its global platform, internet
8 distribution channels, and financial lifeline to the GDP criminal enterprise for over a
9 decade. Compl. ¶ 9. Countless women, including Plaintiff, reported to MindGeek that
10 the GDP videos were unlawful and that online distribution was done without their
11 consent. Compl. ¶ 10. MindGeek further received numerous reports from Plaintiff
12 and other victims about GDP’s fraudulent and illegal practices, exploitation of power
13 disparity, harassment, intimidation, threats of force, force, and other forms of assault
14 and coercion which led to the commercial filming of their sex acts. Compl. ¶ 16.
15 MindGeek also knew, based on GDP’s business model, that GDP needed to film a
16 steady stream of young women, ages 18-23, who had never previously engaged in
17 pornography and who did not want a career in pornography. Compl. ¶ 15. In violation
18 of both federal and state law, MindGeek callously ignored these victims’ harrowing
19 pleas to remove unlawful content, choosing instead to offer its world-wide
20 distribution channels and financial support to GDP. MindGeek categorically
21 prioritized its profits and partnership with GDP criminals over the well-being and
22 future of young people, like Plaintiff. Compl. ¶ 11.

23 However, MindGeek did not just provide the global platform and revenue
24 stream for GDP’s sex trafficking, it participated in publicly exploiting and
25 humiliating GDP victims, including Plaintiff, distributing and further advertising the
26 unlawful content among MindGeek’s vast network of pornography websites. Compl.
27 ¶ 12. MindGeek knowingly and maliciously promoted, participated, and profited
28 from the GDP sex trafficking venture, accepting the criminal enterprise into its

1 Content Partner and Premium Viewshare Programs to maximize views of sex
2 trafficking content, increase customer subscriptions, and generate millions of dollars
3 from the unlawful distribution and advertising of GDP videos. Compl. ¶¶ 17-18.

4 Even after federal law enforcement seized and shut-down GDP in October
5 2019, MindGeek continued hosting, distributing, and advertising the unlawful
6 content, including the sex trafficking videos of Plaintiff. Compl. ¶¶ 19, 226(r). While
7 GDP's principals and staff were criminally prosecuted, MindGeek enjoyed a steady
8 stream of revenue exploiting Plaintiff's name, images, identity, and videos for its own
9 business and financial gain until 2023. Compl. ¶¶ 20, 73-74.

10 Plaintiff has been irrevocably harmed by MindGeek's willful and wrongful
11 choice to profit off the exploitation of Plaintiff and others like her. She brings this
12 action to enjoin MindGeek's further unlawful conduct and seeks compensation for the
13 harm and losses she sustained as a result. Compl. ¶ 21.

14 **III. THE COURT SHOULD DENY THE REQUESTED STAY**

15 **A. The Legislative Purpose of the TVPRA is to Protect Victims, 16 Not to Help Civil Defendants Delay Cases.**

17 Plaintiff brings this action under the TVPRA civil remedy against MindGeek
18 as a "perpetrator" and an entity that "knowingly benefit[ed], or attempt[ed] or
19 conspire[d] to benefit, financially or by receiving anything of value from participation
20 in a venture which [MindGeek] knew or should have known has engaged in [sex
21 trafficking]." 18 U.S.C. § 1595(a). The legislative purpose of the TVPRA's stay
22 provision is not to help civil defendants delay cases, but "to protect the victims of
23 trafficking and strengthen the government's ability to prosecute perpetrators." *Does*
24 *v. Murphy*, No. 7:20-CV-00947-DCC, 2023 U.S. Dist. LEXIS 40631 at *10 (D.S.C.
25 March 9, 2023) (quoting *Kolbek v. Twenty First Century Holiness Tabernacle*
26 *Church, Inc.*, No. 4:10-CV-04124, 2011 U.S. Dist. LEXIS 125968 at *2 (W.D. Ark.
27 October 11, 2011). Indeed, numerous courts have found that the purpose of the
28 TVPRA stay is to aid in the government's prosecution of criminal traffickers and

1 courts should be weary of allowing civil defendants an unwarranted delay of civil
2 justice. *See Kolbek*, 2011 LEXIS 125968, at *10-11 (“[T]he statute was not created
3 to protect civil defendants. Nor was the statute amended, in providing for a private
4 right of action and mandatory stay, in order to protect the rights of civil defendants.
5 Rather, based on the legislative history, and the very name of the Act, the purpose of
6 the Trafficking Victims Protection Act, as amended by the TVPRA, was to protect
7 victims of trafficking and strengthen the government’s ability to prosecute
8 perpetrators.”); *see also Plaintiff A v. Schair*, 744 F.3d 1247, 1254-1255 (11th Cir.
9 2014) (“[A]s the TVPA’s legislative history indicates, the mandatory stay provision
10 was added to § 1595 to alleviate the U.S. Department of Justice’s concern that civil
11 suits could hinder a *domestic* prosecutor’s ability to try criminal cases ‘unfettered by
12 the complications of civil discovery.’ [Citation] There is no reason to believe that
13 § 1595(b)’s stay provision was intended to protect an alleged sex-trafficking
14 defendant’s rights or interests in any way, much less in an *important* way.”); *Lunkes*
15 *v. Yannai*, 882 F.Supp.2d 545, 549 (S.D.N.Y. 2012) (noting that Section 1595’s stay
16 was “meant to allay” the Department of Justice’s concern that civil cases would pose
17 “a risk of adversely affecting the government’s ability to prosecute the case”);
18 *Tianming Wang v. Gold Mantis Constr. Decoration (CNMI), LLC.*, No. 1:18-CV-
19 0030, 2020 U.S. Dist. LEXIS 188676, at *6-7 (D. N. Mar. I. Oct. 9, 2020) (“[C]ourts
20 that considered the legislative history of the TVPRA have held that the mandatory
21 stay provision was designed to protect the DOJ’s ability to try criminal cases
22 unfettered by the complications of civil discovery and not to help defendants delay
23 civil actions.” (internal quotation marks omitted)). Courts therefore interpret the
24 TVPRA stay statute to effectuate the “goal of protecting the government’s ability to
25 prosecute traffickers criminally.” *Jane Doe 1 v. Fitzgerald*, No. CV 20-10713-MWF
26 (RAOx), 2022 U.S. Dist. LEXIS 234806, at *5 (C.D. Cal. Dec. 14, 2022).

27 Accordingly, Section 1595 stays are most often imposed “in cases where the
28 government has intervened in a case, informed the court of an ongoing investigation,

1 and advised that the civil case was subject to a mandatory stay under the TVPRA.”
 2 *Kolbek*, 2011 U.S. Dist. LEXIS 125968 at *9 (citing *Ara v. Khan*, 2007 U.S. Dist.
 3 LEXIS 43170 (E.D.N.Y. 2007); *see also Fitzgerald*, 2022 U.S. Dist. LEXIS 234806.
 4 A civil defendant may not mandate the imposition of a stay, but rather, has the burden
 5 to demonstrate to the court’s satisfaction that the facts and circumstances of the case
 6 warrant the imposition of the stay. *Kolbek*, 2011 U.S. Dist. LEXIS 125968, at *9-11.
 7 Courts require a civil defendant seeking a Section 1595(b) stay to present concrete
 8 evidence of not only a related victim, but also “the same occurrences” involved in the
 9 criminal civil proceeding. *Tianming*, 2020 U.S. Dist. LEXIS 188676, at *7-9. The
 10 imposition of this threshold evidentiary burden ensures the stay provision is “not
 11 being improperly used as a delay tactic by the civil defendant.” *Fitzgerald*, 2022 U.S.
 12 Dist. LEXIS 234806, at *11.

13 Moreover, in *Fitzgerald*, this Court also recognized that a stay may not be
 14 necessary throughout the entirety of an overlapping criminal proceeding. When this
 15 Court granted a stay in *Fitzgerald* based on an intervening USAO investigation, it
 16 also ordered the USAO to provide status updates every six months and to specifically
 17 inform this Court if “the USAO determines that it is no longer necessary to stay this
 18 action to protect the integrity of its investigation and prosecution.” *Id.* at *17-18; *see*
 19 *also Doe v. Medeiros*, No. 20-24357-CIV-MARTINEZ-BECERRA, 2021 U.S. Dist.
 20 LEXIS 255136, at *5 (S.D. Fla. April 23, 2021) (finding “stay is not indefinite and
 21 the Court will continue monitoring the process of the criminal proceeding to ensure
 22 that the stay remains in place no longer than necessary.”).

23 **B. Defendants Have Not Met Their Threshold Burden to Show**
 24 **the Stay Is Not a Delay Tactic, But Rather a Necessity Due to**
 25 **the Pendency of a Criminal Action “Arising Out of the Same**
 26 **Occurrence.”**

27 The TVPRA provides for a stay of civil proceedings only “during the pendency
 28 of any criminal action arising out of the same occurrence in which the claimant is the
 victim.” 18 U.S.C. § 1595(b)(1). Under the TVPRA, “a ‘criminal action’ includes

1 investigation and prosecution and is pending until final adjudication in the trial court.”
2 18 U.S.C. § 1595(b)(2). Thus, given the clear legislative underpinnings of a Section
3 1595(b) stay as solely intended to assist the Department of Justice in prosecuting sex
4 trafficking cases, courts have not permitted civil defendants to force a stay in a civil
5 action without strong evidence that a criminal action “arising out of the same
6 occurrence” is pending and federal authorities require the stay. The analysis requires
7 not merely a “word-for-word comparison between the civil complaint and [criminal]
8 indictment” or finding a “similar factual background,” but rather a careful review of
9 both the conduct at issue and the charges against the defendants. *Tianming*, 2020 U.S.
10 Dist. LEXIS 188676, at *8-11; *Fitzgerald*, 2022 U.S. Dist. LEXIS 234806, at *8-11.

11 **1. Neither the USAO Southern District of California Nor**
12 **USAO Eastern District of New York Seek a Stay of**
13 **Plaintiff’s Civil Action.**

14 Deference to federal authorities who seek to stay a civil case is important
15 because “the USAO prosecuting a parallel criminal case is inevitably in a better
16 position than any other party” to determine if a stay is necessary due to a conflict in
17 overlapping cases. *Fitzgerald*, 2022 U.S. Dist. LEXIS 234806, *10. Therefore, a stay
18 under Section 1595 does not apply in every TVPRA case and courts must look at the
19 underlying facts and criteria in each instance the provision is invoked. *Tianming*, 2020
20 U.S. Dist. LEXIS 188676, at *6-9; *Does v. Murphy*, C/A Nos. 7:20-cv-00947-DCC,
21 7:21-cv-03193-DCC; 2023 U.S. Dist. LEXIS 40631 at *7-9 (D.S.C. March 9, 2023);
22 *see also Cortez-Romero v. Marin J Corp*, No. 2:20-CV-14058, 2020 WL 3162979, at
23 *1 (S.D. Fla. June 11, 2020) (denying the TVPRA motion to stay for lack of sufficient
24 evidence).

25 For instance, in *Fitzgerald*, the USAO specifically intervened in the civil action
26 as a third party seeking a TVPRA stay during the USAO’s criminal investigation of
27 the traffickers. In granting the stay, this Court held: “The fact that it is the USAO,
28 rather than the civil defendant, seeking a stay justifies a lower evidentiary burden not
only because of the USAO’s unique knowledge of the parallel criminal case, but also

1 because of the purpose of the statute.” *Fitzgerald*, 2022 U.S. Dist. LEXIS, at *11; *see*
 2 *also Ara v. Khan*, No. CV 07-1251 (ARR) (JO), 2007 WL 1726456, at *1 (E.D.N.Y.
 3 June 14, 2007) (“the government is uniquely competent to provide a conclusive report
 4 of [whether a stay is mandatory]”). Because the USAO actively sought a stay of the
 5 criminal action to protect against interference with its criminal prosecution and
 6 investigation, the TVPRA stay was properly invoked. *Fitzgerald*, 2022 U.S. Dist.
 7 LEXIS, at *9-10.

8 Unlike in *Fitzgerald*, the criminal investigation in this case is complete. With
 9 merely the criminal sentencing of Wolfe and the extradition process for Pratt left,
 10 neither the USAO Southern District of California (handling the GDP criminal cases)
 11 nor the USAO Eastern District of New York (handling a deferred prosecution of
 12 MindGeek) have intervened in this action, or any civil action, to seek a stay. Marks
 13 Decl. ¶¶ 12-14. The integrity of the investigation and/or prosecution of either GDP or
 14 MindGeek is not dependent on a stay of this civil action. The investigation of GDP
 15 has already occurred, dates back numerous years, and warrants no delay in Plaintiff’s
 16 action. *See* Compl. Exs. 1-2, 7, 8a. Garcia and Wolfe plead guilty for their
 17 involvement in GDP’s crimes. Garcia is sentenced, and Wolfe’s sentencing is
 18 imminent. Pratt is a fugitive abroad and is not yet even being prosecuted for his
 19 crimes. The TVPRA stay was specifically enacted to aid federal authorities in their
 20 criminal prosecution of traffickers. Here, the GDP investigation is complete, and a
 21 stay would do nothing to assist the USAO in sentencing Wolfe or Pratt. As the USAO
 22 is in the best position to know whether a stay is warranted and neither USAO seeks a
 23 stay in this case, the Court should not allow MindGeek to unilaterally impose one.

24 **2. MindGeek Is Negotiating a Deferred Prosecution**
 25 **Agreement and Therefore Has No Pending Criminal**
 26 **Action Against It.**

27 Notably absent from MindGeek’s Motion, and in full candor to the Court,
 28 Plaintiff has learned that MindGeek is currently in the process of negotiating a
deferred prosecution agreement with federal prosecutors at the USAO for the Eastern

1 District of New York to resolve *potential* charges “for violation(s) of Title 18, United
 2 States Code, Section 1957 (engaging in an unlawful monetary transaction) in
 3 connection with MindGeek’s knowing and intentional engagement in monetary
 4 transactions involving the proceeds of sex trafficking by the operators of
 5 GirlsDoPorn.com and GirlsDoToys.com.” Marks Decl. ¶¶ 8-9, Ex. 1. In other words,
 6 MindGeek is actively avoiding a criminal action related to its involvement with GDP
 7 and the allegations in Plaintiff’s Complaint. Thus, MindGeek does not properly argue
 8 for a stay based on any criminal action pending against it—nor could it.

9 A “deferred prosecution agreement” does not constitute “a pending criminal
 10 action.” *Doe v. Epstein*, No. 08-80381-CIV-MARRA/JOHNSON, 2008 U.S. Dist.
 11 LEXIS 129493, at *2 (S.D. Fla. Aug. 5, 2008) (denying the defendant’s motion to
 12 stay). MindGeek’s agreement with the USAO defers criminal prosecution for any of
 13 its wrongdoing and unlawful monetary transactions in connection with GDP such that
 14 no case will proceed pending MindGeek’s fulfillment of the terms of the deferred
 15 prosecution agreement. Marks Decl. ¶¶ 8-9. The GDP investigation is done, and the
 16 USAO has decided that MindGeek need not now—or potentially ever—be criminally
 17 prosecuted for its involvement. A criminal action against MindGeek is unlikely and
 18 entirely speculative at this time. The USAO is in a superior position to understand
 19 whether a criminal prosecution is necessary, or if an investigation may be hindered
 20 by a civil case. *See Fitzgerald*, 2022 U.S. Dist. LEXIS 234806, *10 (finding
 21 deference to the USAO appropriate based on “the USAO’s unique knowledge of the
 22 parallel criminal case...[and] the purpose of the statute”). Here there is neither a
 23 “pending” criminal prosecution against MindGeek, nor any potential interference
 24 with a federal investigation. MindGeek therefore cannot properly seek a TVPRA stay
 25 of Plaintiff’s action. It would defy both law and justice to allow a civil defendant to
 26 impose an indefinite TVPRA stay based on its own negotiated deferred criminal
 27 prosecution. Presumably with this understanding, MindGeek instead solely directs
 28 this Court’s attention to the GDP sentencing of Wolfe and extradition of Pratt.

1 **3. A Stay Must Be Denied Where a Defendant Presents**
 2 **Insufficient Evidence of a Pending Criminal Proceeding**
 that Justifies Staying the Civil Action.

3 MindGeek “cannot mandate the Court to issue a stay here based on mere
 4 speculation of a potential criminal charge,” *Tianming*, 2020 U.S. Dist. LEXIS
 5 188676, at *9 (citing *Kolbek*, 2011 U.S. Dist. LEXIS 125968); *see also Kolbek*, 2011
 6 U.S. Dist. LEXIS 125968, at *8, 11 (insufficient evidence to impose stay); *Cortez-*
 7 *Romero*, 2020 U.S. Dist. LEXIS 102830, at *2-5 (insufficient evidence to impose a
 8 stay); *Murphy*, 2023 U.S. Dist. LEXIS 40631 at *7 (insufficient evidence to impose
 9 a stay). There is insufficient evidence of any pending criminal action to warrant a
 10 stay—not against MindGeek nor against any of the GDP individuals. Furthermore,
 11 the investigation and judicial findings relevant to GDP were conducted and completed
 12 years ago. There is ample discovery, evidence, and judicial findings available to the
 13 parties right now. *See* Compl. Exs. 1-4, 7, 8a. Thus, Defendants’ arguments are a weak
 14 reason for a forthwith stay.

15 The USAO has chosen not to intervene in Plaintiff’s civil action, but instead,
 16 expressly discussed and is negotiating with MindGeek the *deferral* of any criminal
 17 prosecution against it. Marks Decl. ¶¶ 8-9, 12-14. A deferred prosecution agreement
 18 does not constitute a pending criminal action, *Epstein*, 2008 U.S. Dist. LEXIS
 19 129493, at *2, and thus does not provide a basis to stay the civil action.

20 Similarly, there is no pending GDP criminal proceeding that justifies a TVPRA
 21 stay. Wolfe plead guilty for his involvement in GDP crimes. His case has therefore
 22 already had its “final adjudication.” 18 U.S.C. § 1595(b)(2); *see Lunkes*, 882
 23 F.Supp.2d at 549-550 (“[S]ome courts have held that guilty pleas are equivalent to
 24 convictions by trial and are therefore not distinct from a final adjudication on the
 25 merits.” (citations omitted)). It is of no consequence that, after an extension of time
 26 was allowed for his sentencing date, Wolfe’s sentencing is imminent rather than
 27
 28

1 complete.¹ Wolfe’s guilty plea—equivalent to a conviction by trial—and sentencing
2 do not provide a basis for imposing a stay of the civil action.

3 Pratt’s disposition is likewise inapplicable. At the present time, Pratt is merely
4 a fugitive fighting extradition to the United States, and his extradition process has not
5 occurred. Marks Decl. ¶ 11. An extradition proceeding is not a criminal proceeding.
6 *See United States ex rel. Klein v. Mulligan*, 1 F.Supp. 635 (S.D.N.Y. February 3,
7 1931) (“extradition proceedings are not criminal in their nature”). “[A]n extradition
8 is simply one step...in securing the presence of the defendant in the court in which he
9 may be tried, and in no manner determines the question of guilt.” *In re Strauss*, 197
10 U.S. 324, 332 (1905) (finding extradition is the “preliminary” step *before* the criminal
11 “arrest and detention of the defendant” and such “proceedings are not completed until
12 the party is brought before the court in which the trial may be had”). There is currently
13 no “criminal action” against Pratt because there is no “investigation and prosecution”
14 against him. 18 U.S.C. § 1595(b)(2). The GDP investigation is complete, and while
15 eventual prosecution of Pratt is presumed, those proceedings have not been initiated
16 because he is still a fugitive abroad. Moreover, the timing and length of Pratt’s
17 extradition is unknown and speculative. Thus, the extradition of Pratt, without more,
18 does not provide a sufficient basis to stay Plaintiff’s case indefinitely or for a long
19 period of time.²

20 _____
21 ¹ Moreover, Wolfe’s sentencing is set for January 22, 2024, just weeks apart from the
22 date MindGeek’s collective response to Plaintiff’s complaint is due. Marks Decl. ¶¶ 4,
23 11. A stay based on Wolfe’s sentencing scheduled in the same month as MindGeek’s
24 response is wholly unnecessary.

25 ² If Pratt is successfully brought back to the United States to face a criminal
26 prosecution, a stay at that time *may* be warranted. However, it is just as likely, that
27 even if Pratt is extradited and prosecuted, a stay will not be justified because Pratt will
28 decide to cooperate with federal authorities, and like his GDP co-conspirators, enter
a guilty plea. Such a plea will be “equivalent to a conviction by trial” and “not distinct
from a final adjudication on the merits.” *Lunkes*, 882 F.Supp.2d at 549-550.
Alternatively, Pratt may be extradited and immediately plead the Fifth. Pratt was

1 It is contrary to both the letter and intent of Section 1595(b) to stay this action,
 2 to the detriment of a trafficking survivor and to the benefit to the defendant, where
 3 MindGeek has failed to meet its burden and seeks to improperly delay Plaintiff’s case.
 4 This Court should not allow MindGeek to improperly invoke a TVPRA stay to delay
 5 Plaintiff’s civil case *indefinitely* and avoid all liability where the USAO has not
 6 intervened and not initiated criminal action against MindGeek nor Pratt. Other than
 7 delay, there is nothing to be gained by waiting for Wolfe’s sentencing in January 2024
 8 and Pratt’s extradition—and the law does not require it.³

9 **4. GDP and MindGeek Each Engaged in Conduct that**
 10 **May Be Deemed Separate Occurrences Within the Sex**
 11 **Trafficking Venture.**

12 In addition to the absence of a pending criminal action, a TVPRA stay is not
 13 required because GDP and MindGeek each engaged in separate wrongful
 14 occurrences. *Tianming* is instructive on this point. In *Tianming*, the court denied the
 15 defendant’s (third) requested stay based on the differentiation between the claims and
 16 conduct of the parties. 2020 U.S. Dist. LEXIS 188676, at *11-12. Finding that the

17 already deposed in the 2016 civil action. He is a current fugitive, detained in Spain,
 18 and MindGeek has presented no evidence that if Pratt returns to the United States he
 19 will add any value to the discovery of this case, much less necessitate a stay. A stay
 20 of Plaintiff’s case at this time based on Pratt is thus premature and not at all certain.

21 ³ MindGeek incredulously argues that there will be no harm to Plaintiff if a stay is
 22 granted because Plaintiff has already waited years to bring her action. MindGeek
 23 chastises Plaintiff for not coming forward in the prior cases without acknowledging
 24 the strength and courage it took to file the instant action or knowing if she had any
 25 prior opportunity. As thoroughly described in the complaint, Plaintiff was severely
 26 exploited and trafficked by GDP and MindGeek because of the money her videos
 27 generated. She was threatened and assaulted by Pratt, she feared for her life and the
 28 lives of people close to her, and she has been subject to ongoing harassment, public
 humiliation, and stalking. Compl. ¶ 26. It is well known that it can take survivors
 years to recognize and confront their abuse, or to come to terms with it, let alone
 addressing the serious nature of her exploitation and suffering all in the public eye.
 However, while Plaintiff is living in a prison of fear, trauma, and humiliation, every
 day that this case is delayed, MindGeek continues to profit from the proceeds of
 Plaintiff’s trafficking videos and content.

1 criminal case did not “aris[e] out of the same occurrence,” 18 U.S.C. § 1595(b)(1), as
2 the civil case, the court noted the scheme alleged in the criminal indictment was
3 different than the alleged civil scheme. The criminal charges were “based on
4 defendants defrauding and deceiving the U.S. government and its agencies[,]”
5 whereas “[i]n contrast, the civil complaint [was] based on trafficking, worker
6 exploitation, forced labor, and egregious working conditions.” *Id.* at *11-12. The
7 court additionally found that “the scheme alleged in the criminal indictment
8 involve[d] defendants paying the airfare of workers and their companions to pose as
9 female girlfriends or spouses during a narrow period[,] but Plaintiffs’ case on the other
10 hand allege[d] a different scheme where they paid recruitment fees predating this
11 period.” *Id.* at *12. The court therefore held that the record showed the criminal action
12 was distinguishable, did not arise out of the same occurrence as the civil action, and
13 denied the requested stay. *Id.*

14 As in *Tianming*, in this case, GDP and MindGeek engaged in different conduct
15 or parts of the sex trafficking venture, even though sharing a similar factual
16 background. *Id.* at *11-12. While Plaintiff is a victim of wrongdoing by both GDP
17 and MindGeek, their crimes are distinct occurrences. The differentiation is evident
18 from the USAOs’ criminal trafficking prosecutions of Garcia and Wolfe versus the
19 *deferred prosecution agreement* of MindGeek for engaging in unlawful monetary
20 transactions. GDP’s crimes underscore some basis for why the videos of Plaintiff on
21 MindGeek’s platform were unlawful; however, they do not define how MindGeek
22 itself broke the law. Plaintiff alleges MindGeek is civilly liable because it exploited,
23 distributed, and advertised Plaintiff’s name, images, and videos without her consent,
24 even after Plaintiff expressly requested MindGeek take down the videos. Compl.
25 ¶¶ 63, 284, 313. The actions of GDP’s perpetrators to entice, deceive, defraud, and
26 coerce Plaintiff to travel to San Diego and perform sex videos are distinguishable
27 from MindGeek’s own role and culpability, which occurred long after GDP filmed
28 the videos, in providing the global platform and distribution channels for the videos.

1 In so doing, Plaintiff alleges MindGeek itself is a perpetrator of sex trafficking by
 2 acting to maximize customer views, subscriptions, and profits and by providing the
 3 financial lifeline for the sex trafficking venture. Compl. ¶¶ 18, 178. The timing and
 4 roles of GDP and MindGeek in the operation, while related, were different. Combined
 5 with the fact that extensive discovery is already known and available to the parties, a
 6 stay of Plaintiff’s civil action is not justified.

7 **C. A Discretionary Stay of this Case Would Also Be Unjust and**
 8 **Inappropriate**

9 The Court should not use its discretion to stay these civil proceedings as the
 10 interest of justice point against an indefinite stay. “The Constitution does not
 11 ordinarily require a stay of civil proceedings pending the outcome of criminal
 12 proceedings.” *Keating v. Off. of Thrift Supervision*, 45 F.3d 322, 324 (9th Cir. 1995).
 13 However, while the facts do not trigger the mandatory Section 1595(b) stay, the Court
 14 still has inherent discretion to stay the civil proceedings “when the interests of justice
 15 seem to require such action.” *Id.* (quoting *United States v. Kordel*, 391 U.S. 1, 12 n.
 16 27 (1970)). Thus, “[t]he decision whether to stay civil proceedings in the face of a
 17 parallel criminal proceeding should be made ‘in light of the particular circumstances
 18 and competing interests involved in the case.’” *Id.* (quoting *Fed. Sav. & Loan Ins.*
 19 *Corp. v. Molinaro*, 889 F.2d 899, 902 (9th Cir. 1989)). In doing so, the Court should
 20 consider first and foremost “the extent to which the defendant’s fifth amendment
 21 rights are implicated.” *Id.* Other factors include: “(1) the interest of the plaintiffs in
 22 proceeding expeditiously with this litigation or any particular aspect of it, and the
 23 potential prejudice to plaintiffs of a delay; (2) the burden which any particular aspect
 24 of the proceedings may impose on defendants; (3) the convenience of the court in the
 25 management of its cases, and the efficient use of judicial resources; (4) the interests
 26 of persons not parties to the civil litigation; and (5) the interest of the public in the
 27 pending civil and criminal litigation.” *Id.* at 324–25. Here, each of the *Keating*
 28 Factors point against staying this civil matter.

1 First, the Fifth Amendment provides that “no person...shall be compelled in
2 any criminal case to be a witness against himself.” U.S. Const. amend. V. This Fifth
3 Amendment right only attaches to a criminal accused or Defendant. Moreover, “a
4 stay is not warranted because a corporation has no Fifth Amendment right against
5 self-incrimination.” *Tianming*, 2020 U.S. Dist. LEXIS188676, at *14 (citing
6 *Braswell v. United States*, 487 U.S. 99, 105–106, 110–112 (1988); *Hale v. Henkel*,
7 201 U.S. 43, 74 (1906)). “[T]herefore no constitutional issues are implicated.” *Id.*
8 MindGeek has failed to provide evidence that they are in criminal jeopardy.

9 Second, Plaintiff has a substantial interest in this case proceeding expeditiously.
10 Plaintiff’s life has been ruined. Her entire adult life has been experiencing the trauma
11 of the initial trafficking and sexual assault, followed by the trauma of having
12 nonconsensual material distributed and advertised broadly all over the internet
13 claiming she was a “porn star.” Men have repeatedly harassed and intimidated
14 Plaintiff at her home. The sooner she sees justice the sooner she can begin to put her
15 life back together. An indefinite delay of her civil action causes legal prejudice
16 because it increases the risk that evidence will be lost (or destroyed), witnesses’
17 memories will deteriorate, and witnesses themselves may pass on, move, or become
18 more difficult to track over time.

19 Third, MindGeek is not burdened by proceeding in this action. Plaintiff’s case
20 is about MindGeek, its own conduct, its refusal to remove nonconsensual material,
21 and its records. MindGeek had actual and constructive knowledge that it was
22 promoting and profiting off of the non-consensual, trafficked material. While GDP’s
23 crimes underscore some basis for why the videos of Plaintiff on MindGeek’s platform
24 were unlawful, they are irrelevant to how MindGeek itself broke the law. Plaintiff
25 alleges MindGeek is civilly liable because it distributed and advertised videos of
26 Plaintiff without her consent and after Plaintiff expressly requested MindGeek take
27 down the videos as consensual content. Nevertheless, GDP’s Garcia, Wolfe, and Pratt
28 have all already been deposed. There is ample evidence already known and available

1 to the parties. MindGeek’s request to stay this action and purported burden is a red
2 herring intended to divert the Court’s attention from the true allegations Plaintiff
3 asserts against MindGeek in this instant civil action.

4 Fourth, denying MindGeek’s stay makes the best use of judicial resources
5 because it allows the parties to proceed with additional discovery to ascertain
6 meaningful settlement discussions. Staying the case will simply increase backlog of
7 the Court docket, by preventing access to the facts needed to resolve this dispute.

8 Fifth, the interest of non-parties factor weighs heavily in favor of denying the
9 requested stay. Victim survivors of sex trafficking and community advocates
10 committed to stopping sex trafficking have an interest in seeing justice served as soon
11 as possible. It fundamentally sends the wrong message to trafficking victims to see
12 that their day in Court may be indefinitely delayed to the benefit of a corporation that
13 has already caused so much harm, hiding behind the individual criminals.

14 Finally, the public has an interest in knowing that as a society we are committed
15 to doing everything we can to prevent trafficking, and to know that those who engage
16 in trafficking operations for profit will be held accountable. For these reasons, the
17 Court, in its discretion, should deny MindGeek’s motion.

18 **D. Alternatively, the Court Should Stay the Case Only Until**
19 **January and Enter a Protective Order to Preserve Evidence.**

20 Plaintiff respectfully requests that the Court deny MindGeek’s motion to stay
21 to prevent an unjust and indefinite delay of her case. However, if the Court finds that
22 MindGeek has met its burden, and is inclined to grant a stay, Plaintiff alternatively
23 requests the stay be enforced only through January 22, 2024, for the completion of
24 Wolfe’s sentencing. *Supra*. At this time, the prosecution of Pratt is far too speculative
25 to provide the basis for a stay.

26 In addition, “[w]hen an action is stayed, a court may order the parties to
27 preserve vulnerable evidence until the proceedings resume.” *Medeiros*, 2021 U.S.
28 Dist. LEXIS 255136, at *14 (granting request for protective order). Plaintiff will

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DATED: October 31, 2023

BURG SIMPSON
ELDREDGE HERSH & JARDINE, P.C.

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