

3-25-2021

Fallout Avoided? Zoombombing Litigation Update

Kaitlin Carpenter

Follow this and additional works at: <https://scholarship.law.slu.edu/lawjournalonline>

 Part of the [Law Commons](#)

Fallout Avoided? Zoombombing Litigation Update

Kaitlin Carpenter*

It seemed Zoom was one of few winners after Covid-19 forced the world to change the way we worked, learned, and socialized. Zoom quickly became the default for universities, employers, and individuals, surpassing more recognizable video conference players like Microsoft (Teams), Cisco (Webex) and Google (Hangouts).¹ First-time installs rose from 6.2 million in February 2020 to over 76 million in March 2020—a 1,126% rise.² By March 18, 2020, Zoom was the top free app for iPhones in America, and had 200 million daily users during that month.³ The phrase “Let’s jump on a Zoom” had become ubiquitous.⁴ However, this seemingly meteoric rise was not unexpected—in 2016, Zoom was the fastest growing video conferencing app, and over the past three years experienced an 876% growth in customers, compared to Webex’s 91% growth.⁵

Zoom’s popularity can be attributed largely to the fact it allows free, forty-minute conference calls, capped at one hundred attendees.⁶ Further, Zoom’s interface is fairly intuitive, and people do not need a login to access a meeting.⁷ But, while the easy use of Zoom has attracted many consumers to the video conference player, these same features put their users at risk.⁸

* J.D. Candidate, 2022, Saint Louis University School of Law.

¹ Roger Dooley, *How Zoom Conquered Video Conferencing*, FORBES (Sept. 30, 2020), <https://www.forbes.com/sites/rogerdooley/2020/09/30/how-zoom-conquered-video-conferencing/?sh=4ae423b75a97>.

² Taylor Lorenz & Davey Alba, ‘Zoombombing’ Becomes a Dangerous Organized Effort, N.Y. TIMES (Apr. 7, 2020), <https://www.nytimes.com/2020/04/03/technology/zoom-harassment-abuse-racism-fbi-warning.html>.

³ Dain Evans, *How Zoom became so popular during social distancing*, CNBC (Apr. 4, 2020), <https://www.cnn.com/2020/04/03/how-zoom-rose-to-the-top-during-the-coronavirus-pandemic.html>.

⁴ Dooley, *supra* note 1.

⁵ *Id.*

⁶ Ashley Carman, *Why Zoom became so popular*, THE VERGE (Apr. 3, 2020), <https://www.theverge.com/2020/4/3/21207053/zoom-video-conferencing-security-privacy-risk-popularity>.

⁷ *Id.*

⁸ *Id.*

The weaponization of Zoom grew with the app's popularity in a practice known as "Zoombombing."⁹ Zoombombers take advantage of Zoom's randomly generated ID access codes and lack of required passwords to join others' Zoom calls, and then broadcast hate speech or offensive material like pornography on these calls.¹⁰ This is incredibly easy to do: security researchers developed an automated tool that could find approximately 100 Zoom meeting IDs in sixty minutes, and information for almost 2,400 Zoom meetings in just one day of scans.¹¹ Zoombombing seems to have an expansive reach—Chipotle was forced to shut down a promotional Zoom featuring singer Lauv after a participant began broadcasting pornography.¹² Others, like a New York Alcoholics Anonymous meeting, a Texas Sunday School class, a Michigan city meeting, and online classes at the University of Southern California, to name a few, have also been victims of Zoombombing.¹³

By late March 2020, the FBI was involved, warning schools in particular how to protect themselves from teleconference hijacking.¹⁴ The New York Attorney General sent a letter to Zoom inquiring into the platform's security and privacy protections.¹⁵ In response to the onslaught of media coverage of Zoombombing, Zoom CEO Eric Yuan released a blog post outlining steps the company already took to address the issue, as well as a ninety-day plan to strengthen Zoom's security and privacy practices.¹⁶ Zoom also posted a guide instructing users how to protect their Zoom calls from unwanted attendees.¹⁷

⁹ Lorenz & Alba, *supra* note 2.

¹⁰ Carman, *supra* note 6.

¹¹ *Id.*

¹² Taylor Lorenz, 'Zoombombing': When Video Conferences Go Wrong, N.Y. TIMES (Mar. 20, 2020), <https://www.nytimes.com/2020/03/20/style/zoombombing-zoom-trolling.html>.

¹³ Shannon Bond, *A Must for Millions, Zoom Has A Dark Side — And An FBI Warning*, NPR (Apr. 3, 2020), <https://www.npr.org/2020/04/03/826129520/a-must-for-millions-zoom-has-a-dark-side-and-an-fbi-warning>.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Eric S. Yuan, *A Message to Our Users*, ZOOM (Apr. 1, 2020), <https://blog.zoom.us/a-message-to-our-users/>.

¹⁷ *How to Keep Uninvited Guests Out of Your Zoom Event*, ZOOM (Mar. 4, 2021), <https://blog.zoom.us/keep-uninvited-guests-out-of-your-zoom-event/>.

Federal and state prosecutors responded to Zoombombing reports by threatening criminal charges and fines on the perpetrators.¹⁸ In fact, a Madison teenager was arrested and charged with fifth-degree computer crime, fifth-degree conspiracy to commit a computer crime, and breach of peace after Zoombombing his online classes with obscene language and gestures.¹⁹

Despite this focus on Zoombombers, some victims of this practice place equal blame on Zoom itself. A San Francisco church filed a class action lawsuit against Zoom in May 2020 in the Northern District of California after a bible study class “had their computer screens hijacked and their control buttons disabled while being forced to watch pornographic video footages.”²⁰ This case was assigned to Judge Lucy H. Koh, who is considered a giant in deciphering Silicon Valley’s legal issues.²¹

However, it appears highly likely that Zoom will escape any liability for Zoombombing. On March 11, 2021, Judge Koh handed down an order regarding Zoom’s Motion to Dismiss, which granted and denied dismissal in part.²² While the case was allowed to proceed on the plaintiffs’ claims of contractual breach, Judge Koh dismissed Zoombombing claims, citing Section 230 of the Communications Decency Act, which offers broad protections over third-party content to online platforms.²³ Judge Koh wrote: “[A]ppalling as this content is, Zoom’s failure ‘to edit or block user-

¹⁸ Rachel Bercovitz, *Prosecuting Zoom-Bombing*, LAWFARE (Apr. 24, 2020), <https://www.lawfareblog.com/prosecuting-zoom-bombing>.

¹⁹ Zach Murdock, *Madison teen arrested for ‘Zoom bombing’ high school classes*, HARTFORD COURANT (Apr. 8, 2020), <https://www.courant.com/breaking-news/hc-br-madison-schools-zoom-bombing-arrest-20200408-ul6h7r7xhzfm3bv6na4ncv7p6e-story.html>.

²⁰ Kelly Tyko, *California church files class action lawsuit against Zoom after bible class ‘Zoombombing’*, USA TODAY (May 14, 2020), <https://www.usatoday.com/story/tech/2020/05/14/zoom-class-action-lawsuit-zoombomb-pornographic-images/5182609002/>.

²¹ Kirsten V. Brown, *In Silicon Valley, Lucy Koh is the law*, S.F. CHRON. (Aug. 9, 2014), <https://www.sfgate.com/bayarea/article/In-Silicon-Valley-Lucy-Koh-is-the-law-5679303.php>.

²² Order on Mot. to Dismiss, *In re Zoom Video Communications Inc. Privacy Litigation*, — F.Supp.3d — (2021) (No. 20–CV–02155–LKH), 2021 WL 930623.

²³ Joel Rosenblatt, *Zoom Mostly Defeats Lawsuit Over User Data Privacy, Zoombombing*, BLOOMBERG (Mar. 12, 2021), <https://www.bloomberg.com/news/articles/2021-03-12/zoom-mostly-defeats-lawsuit-over-user-data-privacy-zoombombing>.

generated content' is 'the very activity Congress sought to immunize.' The bulk of Plaintiffs' Zoombombing claims lie against the "Zoombombers" who shared heinous content, not Zoom itself."²⁴

Although Judge Koh allowed the plaintiffs to revise and refile many of the dismissed allegations, it's unlikely that Zoombombing victims will ever witness accountability, as Zoom itself is not liable and Zoombombers are almost impossible to track down. The moral of this story? Remember to set up a Zoom meeting password.

Edited by Ben Davisson

²⁴ Order on Mot. to Dismiss, *supra* note 22, at 19.