

Santa Clara University

47 USC 230, Roommates.com and Anti-SLAPP Laws

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47 USC §230(c)(1)

No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider

47 USC §230(c)(1)

- **“Provider or user of an interactive computer service”**
 - ICS = “any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions”
- **“Treated as a publisher or speaker”**
 - Excludes federal crimes, [federal] IP laws and ECPA
- **“Provided by another information content provider”**
 - ICP = “any person or entity that is responsible, in whole or in part, for the creation or development of information provided through the Internet or any other interactive computer service”


Account Settings

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View Profile

Enter nickname:

ericgoldman: Needs a place to live

[You have mail](#) 


About Me

Select details regarding yourself / your lifestyle.

Age: 

Gender: 

Sexual Orientation: 

Occupation: 

Smoking: 

Cleanliness: 

Pets: Dog(s) Cat(s) Caged Pet(s)

Children: 

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View Profile

Enter nickname:

ericgoldman: Needs a place to live

[You have mail](#)

My Roommate Preferences

Select the criteria by which we should match your potential roommate.

Age range: - to - Adjust if you prefer a specific age group.

Female:

Male:

Smoking:

Cleanliness: Clean Average Messy Deselect if unacceptable.

Pets: Dog(s) ok Cat(s) ok Caged Pet(s) ok

Children: Change if you have a preference regarding children in the home.

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View Profile

Enter nickname:

ericgoldman: Needs a place to live [Hidden]

You have mail

Search the database

Select Criteria

I'm seeking:

- Straight female
 Lesbian
 Straight male
 Gay male
 Select all that apply.
- Professional
 Student
 Unemployed
 Military
- Non smoker
 Smoker
 Outside smoker
 Retired

Between ages: and Adjust if you prefer a specific age group.

Who:

Within: Modify to widen or narrow your search area.

Of:

If you're unsure of spelling, simply enter the first few letters of the city to be presented with a list of possibilities.

Available: - - Date either the room is available or roommate is available to move.

Payment: Monthly fee for room.

Additional Preferences

Cleanliness: Average Clean Messy

Pets: No dogs No cats No caged pets

Children: Change if you have a preference regarding children in the home.

Roommates.com Holding (?)

If you don't encourage illegal content, or design your website to require users to input illegal content, you will be immune

Implications

- Immunity isn't reduced by editorial control, scienter or takedown notices
- Section 230 workarounds? (out of 5 💰)
 - Not ICS [💰]
 - 230 eliminated publisher liability, not distributor liability [💰]
 - Promissory estoppel [💰 💰]
 - Partial responsibility for content development [💰 💰]
 - Claim over site text/marketing [💰 💰 💰]
 - [federal] IP claim [💰 💰 💰 💰]

CA Anti-SLAPP Law/CCP 425.16

- SLAPP = “Strategic Lawsuit Against Public Participation”
- Defendant typically files motion to strike within 60 days after complaint
 - Motion to strike stays all discovery
- Defendant must show the lawsuit targets speech on “issue of public interest”
- If so, plaintiff has burden to show “probability” of prevailing
- If motion to strike succeeds, case ends + mandatory fee-shift
 - If motion fails, defendant can immediately appeal

Additional Provisions

- **Public interest litigation exception (CCP 425.17(b))**
 - Plaintiff not seeking more/different relief than general public/class
 - Enforcement of “important right affecting the public interest” and confers “significant” benefit on public or large class
 - Private enforcement necessary
- **Advertising Exception (CCP 425.17(c))**
- **Exceptions to exceptions (CCP 425.17(d)) = newsgatherers, “any dramatic, literary, musical, political, or artistic work,” non-profits receiving 50%+ government funding**
- **SLAPPBack (CCP 425.18) = reduced burdens to malicious protection claim based on SLAPP**
- **Restrictions on unmasking subpoenas (CCP 1987.1 & 1987.2)**