



CSE INSTITUTE POLICY PAPER

Why Section 230 of the Communications Decency Act Does Not Bar Civil Lawsuits Brought By Sex Trafficking Victims Against Backpage.com

The criminal justice system has recently turned its attention to investigating and prosecuting the crime of sex trafficking. Unfortunately, civil litigators have not been as successful at helping sex trafficking victims obtain justice outside the criminal justice system. Lawsuits against sex traffickers and pimps are usually not financially wise. Fortunately, a provision in Act 105 (2014), Pennsylvania's anti-trafficking statute, permits survivors to sue big-pocket targets like Backpage.com ("Backpage"), an online "adult services" classified-style advertiser that is well known for hosting ads that facilitate the sex trafficking of women and girls. Many convicted sex traffickers have advertised their victims as available for sex on Backpage, some as many as 300 times, resulting in 10-12 transactions daily.¹ In order to escape liability for suits brought by sex trafficking victims, Backpage has relied on a provision in the Communications Decency Act², a Federal statute that prevents websites from being liable for content created by their users.

This policy paper explains why the Communications Decency Act does not bar lawsuits brought by sex trafficking victims against Backpage. It explains how sex traffickers use Backpage and the Internet to recruit and sell their victims, and how civil litigators can help victims sue their traffickers or pimps using civil remedies in federal

and state statutes. It then explains the history of section 230 of the Communications Decency Act, and why the CDA does not grant websites like Backpage a broad, general immunity from suit. In fact, Backpage is ineligible for section 230's grant of immunity because it helps pimps and traffickers develop the ads they post on the Internet.

I. How Sex Traffickers Use Backpage.com and the Internet

Backpage is an online classifieds-style advertising service. It is primarily known for its "adult services" section, and is "the nation's leading publisher of online prostitution advertising" now that Craigslist, a similar online classifieds service, shut down its own "adult services" section in 2010.³ Backpage is also known to law enforcement as one of the biggest facilitators of sex trafficking, including sex trafficking of minors.⁴ This is because Backpage is easily accessible and anonymous, making it virtually risk-free for buyers and sellers of sex. In order to advertise their victims for sale on Backpage, traffickers and pimps only need to provide an email address and text and images for the ad. Backpage does not require a phone number. Ads are free, but Backpage gives its customers the option of "upgrading" an ad. For a small fee, Backpage will move the ad to the top of the poster's region every hour (or other specified time period). Traffickers can also pay for the ad to be duplicated across regions. This means that traffickers and pimps can maximize the number of potential customers who will see the ad, leading to more "dates" for their victims and more money for them. Backpage allows traffickers and pimps to pay for "upgrades" with anonymous forms of payment like Bitcoin or a prepaid credit card, making it harder for law enforcement to track.⁵

Backpage's "adult" section also includes ads for children. Convicted child sex traffickers, including some in Pennsylvania, have used Backpage to advertise their

victims.⁶ Even though Backpage is fully aware that its website is used to facilitate child sex trafficking,⁷ not much is known about its internal practices to keep ads for child sex off its website. It outwardly claims that it has “strict content policies to prevent illegal activity.”⁸ But it also refuses to take down ads, even when it receives reports that an ad features children. During a hearing on Backpage before the Senate Committee on Homeland Security and Governmental Affairs, Yiota Souras of The National Center for Missing and Exploited Children testified that comments from family members reporting ads featuring their underage sisters or daughters show that previous reports to Backpage went unanswered:

“My name is [] and my wife is []. Your website has ads featuring ads of our 16-year old daughter, [] posing as an escort. She is being pimped out by her old bf, and she is underage. I have emailed the ad multiple times using your website, but have gotten no response. For God’s sake, she’s only 16.”⁹

Backpage’s recalcitrance to stop facilitating child sex trafficking on its website is motivated by one thing: money. A study by the AIM Group, conducted in 2013, approximated that Backpage had \$22.7 million in annual revenue from its “adult services” section.¹⁰

Although Backpage is the primary means by which traffickers use the Internet to exploit their victims, the World Wide Web provides traffickers and pimps an easy way to recruit and groom their victims. Traffickers engage with potential victims using profile-based social media sites like Facebook and MySpace and then gain their trust by “expressing love and admiration of the victim, promising to make the victim a star, and providing a ticket to a new location away from the victim’s home.”¹¹ In one case in Pennsylvania, a convicted child sex trafficker created a fake female profile on Facebook to befriend troubled teens online and recruit them to sell sex for him.¹²

II. Civil Remedies Available for Sex Trafficking Victims

Due to mounting public awareness and recent action by federal and state legislatures¹³, national and local law enforcement have increased their efforts to investigate and prosecute sex traffickers. Civil litigators, however, have lagged behind in helping sex trafficking victims secure justice¹⁴ - despite robust civil remedies that permit sex trafficking victims to sue their traffickers.¹⁵ Unfortunately for sex trafficking victims, civil lawsuits against their traffickers and pimps are unlikely to yield large enough recoveries to make bringing a civil action worthwhile.¹⁶ The emotional and financial cost of litigating a civil tort action is likely to exceed any potential recovery against defendants who are “judgment proof” (that is, unable to pay the damages awarded by the jury).

However, the civil remedy in Pennsylvania’s anti-trafficking law extends civil liability beyond traffickers and pimps, permitting “any individual who is a victim of the sex trade” to “bring a civil action . . . against a person that . . . knowingly advertises or publishes advertisements for purposes of recruitment into sex trade activity.”¹⁷ This specific provision allows sex trafficking victims in Pennsylvania to sue Backpage, a defendant with potentially much bigger pockets than a pimp. In other states, plaintiffs have sued Backpage under various tort liability theories and under provisions in their state and the federal anti-trafficking law that provide a right to civil action against those who “knowingly benefit[, financially]” from a victim’s trafficking.¹⁸ Unfortunately, a federal statute, the Communications Decency Act (CDA), has created challenges for plaintiffs seeking to sue Backpage.

III. The Communications Decency Act Section 230

Under CDA section 230(c)(1), “[n]o 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.”¹⁹ This means that websites that *passively host* content created by website users cannot be sued if the cause of action treats the website as if *it* created or published that user-created content.

In early cases interpreting section 230, courts characterized section 230’s immunity as “broad” and “robust,” “immunizing interactive computer services from liability for information that originates with third parties.”²⁰ Internet freedom groups have argued that courts must continue to interpret section 230 broadly, providing an *automatic* bar to *all* civil lawsuits that attempt to hold websites liable for content created by their users.²¹ Such immunity is necessary, they argue, in order to help create, foster, and maintain the “diverse, expansive Internet we know today.”²²

But courts have more recently departed from an automatic, all-encompassing immunity, reasoning that the CDA’s text does not “declare a *general* immunity from liability from third-party content,” but rather requires a more narrow interpretation.²³ By its plain terms, Section 230 “only ensures” that a plaintiff may not sue a website when the “plaintiff’s theory of liability would *treat [the website] defendant as the publisher or speaker of third-party content.*”²⁴ In *Barnes v. Yahoo!*, a Ninth Circuit case, the plaintiff sued Yahoo! after she repeatedly requested that the website take down fake profiles of her that her ex-boyfriend created to harass her.²⁵ One of Ms. Barnes’s theories of liability, promissory estoppel, sought to hold Yahoo! accountable because its Director of Communications expressly told Ms. Barnes that Yahoo! would take the profiles down.²⁶ Yahoo! argued that section 230 barred the promissory estoppel claim, but the court let it

continue.²⁷ Section 230 only precludes liability when the plaintiff's theory of liability "derives from the defendant's status or conduct as a publisher or speaker," but Ms. Barnes's lawsuit did not seek to hold Yahoo! accountable because of its publishing conduct *itself*.²⁸ Instead, her lawsuit treated Yahoo! as a party to a contract – a promisor who had breached its *promise to do something*, take down the profiles.²⁹

Courts have continued to interpret section 230 in this manner, permitting websites to rely on immunity only when the plaintiff's cause of action treats the website as a publisher or speaker.³⁰ Additionally, courts have also begun to recognize that websites can both be an "interactive computer service," someone who hosts content created by other web users, *and* an "information content provider," someone who is "responsible, in whole or in part," for "creating or developing" website content.³¹ Critically, Section 230 does *not* apply when a website is an "information content provider."³² In other words, if the website "passively displays content that is created entirely by third parties," it will be entitled to immunity for that content.³³ But if it has a role in developing content or creates content itself, it is not entitled to immunity for that content.³⁴

In *Fair Housing Council v. Roommates.com*, another Ninth Circuit case, the plaintiff sued Roommates.com for violations of the Fair Housing Act, which prohibits discrimination in housing choices.³⁵ Roommates.com allowed renters looking for roommates to create profiles and search for roommates based on those profiles.³⁶ In order to create a profile and use the site, the website required users to input their sex, sexual orientation, and whether they had children.³⁷ The website then curated a list of potential roommates for a user based on his or her inputs.³⁸ Roommates.com argued the Fair Housing Council's lawsuit was barred by section 230, but the court disagreed, finding

that the way Roommates.com designed its website and interacted with the information provided by its users transformed it from a “passive transmitter of information” to “the developer, at least in part, of that information.”³⁹ According to the Ninth Circuit, the CDA simply does not grant immunity when a website “induces” and “elicits” third parties to create allegedly illegal content, and “makes aggressive use of it in conducting its business.”⁴⁰ Where it is evident that a website “does not merely provide a framework” that could be used illegally but “directly participates in developing the alleged illegality” then “immunity will be lost.”⁴¹

IV. The CDA and Suits Against Backpage

Backpage is indisputably an “interactive computer service” – its purpose is to host content – advertisements - that its users create. But critically, it is also an “information content provider” when it comes to its “adult services” section – it develops, induces, and elicits ads for prostitution and child sex trafficking as part of its lucrative business. In two recent cases against Backpage, plaintiffs, who were all children when their pimps advertised them on Backpage, alleged well-pleaded allegations that Backpage develops illegal advertisements itself.⁴² In a suit in Washington state court, plaintiffs alleged that Backpage has a “substantial role in creating the content and context of advertisements on its website” by designing its posting rules to induce sex trafficking.⁴³ While Backpage purports to prohibit ads that “allow solicitation directly or in coded fashion” or posts that “exploit minors in any way,” those rules are actually aimed at “helping pimps [craft ads that] evade law enforcement” and Backpage actually develops its website to “allow and encourage illegal trade to occur.”⁴⁴

In a suit in Federal court in the District of Massachusetts, plaintiffs elaborated on more specific conduct Backpage undertakes to induce trafficking on its website. Backpage encourages anonymity by not requiring a phone number in order to post an escort ad and by permitting the use of anonymous forms of payment.⁴⁵ In fact, Backpage provides a 10% discount to anyone who pays using Bitcoin, incentivizing anonymity.⁴⁶ And interestingly, Backpage *does* require a phone number for ads for pets, boats, and motorcycles “in order to prevent scams.”⁴⁷ But for escort ads, no phone number is required, so pimps place the phone number in the text of the ad itself. By allowing this, Backpage permits pimps to evade law enforcement searches for phone numbers by writing a phone number like this: “two-zero-1, three-four-5, six-seven-8-9” instead of like this: 201-345-6789.⁴⁸ Backpage automatically filters for certain words like “barely legal” and “high school” but permits known code words for underage like “girl,” “young,” and “fresh.”⁴⁹ Backpage also does not have an age or identity verification process for escort ads.⁵⁰ And, it strips metadata associated with photographs before publishing the photographs on its website, preventing law enforcement from effectively searching for repostings of the same photograph.⁵¹

Fortunately, the Washington State Supreme Court held in the plaintiffs favor, finding that section 230 did not bar their suit because they had sufficiently pled allegations that Backpage “helped to develop unlawful content” and “contributed materially to the alleged illegality of the conduct” of its users.⁵² Unfortunately, the District of Massachusetts held that section 230 did bar the plaintiffs’ suit, because Backpage’s “allegedly sordid practices” neither amounted to “affirmative participation in

an illegal venture nor active web content creation.”⁵³ The suit is currently pending before the First Circuit.⁵⁴

It is critical that the First Circuit follow Washington state’s lead and rule that Section 230 of the CDA does not bar plaintiff’s lawsuit against Backpage. Plaintiffs have illustrated that Backpage’s business practices and treatment of content on its website made it a direct participant in their trafficking. Plaintiffs do not attempt to hold Backpage liable as a mere publisher of the ads that led to their trafficking, but as the developer of the content of those ads itself. Through its business practices and treatment of content on its website, Backpage “incentivizes and encourages illegal activity,” “enables pimps to evade law enforcement,” and “coaches posters” to create ads for child sex in a coded, not explicit, manner.⁵⁵ Backpage is not being sued because its website merely hosts these ads. It is “being sued for the predictable consequences of creating a website designed to solicit” illegal ads for prostitution and child sexual exploitation.⁵⁶ It is simply not entitled to section 230 immunity for this conduct.

V. The CDA and Suits Against Other Websites

Victims of abuse have also used tort liability to sue profile-based websites when they are harmed by website users. In a case pending before the Ninth Circuit, a plaintiff sued the website Model Mayhem after she met two men on the site who saw her profile.⁵⁷ They claimed to be talent scouts, and lured the plaintiff to Miami for a “modeling audition,” where they drugged, raped, and filmed them having sex with her, which they later sold as pornography.⁵⁸ The plaintiff was not these predators’ first victim, and in fact, the company that owned Model Mayhem was actually aware of how these two men were

using the website.⁵⁹ In her lawsuit, the plaintiff argued that the website should be liable for failing to warn her of the rape scheme.⁶⁰

Model Mayhem argued that section 230 of the CDA barred her lawsuit, but the Ninth Circuit disagreed.⁶¹ The plaintiff did not seek to hold Model Mayhem liable as a “publisher or speaker of content someone posted on the website,” but for its failure to inform her and other users of the known danger the rape scheme posed.⁶² Model Mayhem’s tort duty did not arise from “allegations about mishandling third party content” or “an alleged failure to adequately regulate access to user content”; in fact, the predators didn’t even have any profile or post any content on the website.⁶³ After allowing the plaintiff’s suit to proceed, the Ninth Circuit granted Model Mayhem’s motion for a re-hearing and withdrew its original opinion.⁶⁴ It is unclear if the court will reverse or limit its original ruling.

This case may ultimately be limited to its unique facts, and critics have pointed to the practical difficulties of enforcing such an obligation to warn.⁶⁵ However, if the Ninth Circuit upholds its original ruling, it could become a powerful tool for victims who wish to sue websites like Facebook and MySpace. If these websites learn of specific trafficking recruiting conduct by specific individuals, they will not be able to idly stand by as their users are brutally victimized by predatory traffickers.

VI. Conclusion

The Communications Decency Act helps protect websites from being liable as publishers for content created solely by their users. In so doing, it helps maintain a vibrant, continually developing Internet that allows people to communicate readily and easily with each other, very frequently using “interactive computer services.” However,

the CDA “was not meant to create a lawless no man’s land on the Internet.”⁶⁶ States have deliberately chosen to enact laws that hold traffickers accountable to their victims, and localities should be able to “preserv[e] the applicability of local laws to businesses that operate within their jurisdictions.”⁶⁷ The CDA should not keep rogue actors like Backpage free from liability when they deliberately craft their businesses to profit off the illegal acts of others on their websites. Courts must interpret the CDA to permit suits against Backpage so that trafficking victims can have their day in court and have a chance to seek real monetary damages for the horror of the victimization that Backpage had a direct and deliberate role in perpetuating.

¹ *Jane Doe 1 et al. v. Backpage.com*, No-14-13870, 2015 U.S. Dist. LEXIS 63889, at *7 (D. Mass. May 15, 2015).

² 47 U.S.C. §§ 223, 230.

³ Brief of *Amici Curiae*: Covenant House, et al. at 17, *Jane Doe No. 1 et al. v. Backpage.com*, No. 15-1724 (1st Cir. Oct. 5, 2015), EC, F No. 29.

⁴ Letter from National Association of Attorneys General to Samuel Fifer, Counsel for Backpage.com (Aug. 31, 2011), available at <http://www.naag.org/assets/files/pdf/signons/Backpage%20WG%20Letter%20Aug%202011Final.pdf>.

⁵ In July 2015, Visa and MasterCard began declining to process payments for Backpage.com ads. Robin Sidell & Mark Peters, *MasterCard Stops Processing Purchases of Ads on Backpage.com*, Wall Street Journal (June 30, 2015), available at <http://www.wsj.com/articles/mastercard-stops-processing-purchases-of-ads-on-backpage-com-1435701660>. The credit card companies began declining these payments after they received a letter from Sheriff Thomas Dart of Cook County, Illinois, requesting that the companies cease allowing payments due to Backpage’s facilitation of sex trafficking. *Id.* Backpage subsequently filed suit in the Northern District of Illinois, asking the court to enjoin Sheriff Dart from continuing to attempt to “defund” Backpage and requiring him to retract his letters to Visa and MasterCard, informing them of any court decision that rendered his letters illegal. *Backpage.com v. Dart*, No. 15-6340, 2015 U.S. Dist. LEXIS 122211 at *5 (N.D. Ill. Jul. 24, 2015). The court denied Backpage’s motion for a preliminary injunction, but on November 30, 2015, the Seventh Circuit reversed, holding that Sheriff Dart’s letter violated the First Amendment. *Backpage.com v. Dart*, No. 15-6340, 2015 U.S. Dist. LEXIS 116625, at *1-2 (N.D. Ill. Sept. 2, 2015), *rev’d*, *Backpage.com v. Dart*, No. 15-3047, 2015 U.S. App. LEXIS 20728 at * 26-27 (1st Cir. Nov. 30, 2015). It is unclear if Visa and MasterCard will now permit payments for Backpage ads in the aftermath of the Seventh Circuit’s decision.

⁶ AG Letter, *supra* note 2, at 1 (“[State attorneys general] have tracked more than 50 instances, in 22 states over three years, of charges filed against those trafficking or attempting to traffic minors on Backpage.com”); Sentencing Memorandum, *USA v. Abernathy*, No.14-009 (W.D. Pa. Dec. 30, 2014), ECF No. 80; Sentencing Memorandum, *USA v. McIntyre*, No. 13-361 (E.D. Pa. Jul. 16, 2014), ECF No. 98; Sentencing Memorandum, *USA v. Johnson*, No. 12-571 (E.D. Pa. Sept. 30, 2013), ECF No. 34.

⁷ AG Letter, *supra* note 2, at 2 (“In a meeting with the Washington State Attorney General’s Office, Backpage.com Vice President Carl Ferrer acknowledged that the company identifies more than 400 “adult services” posts every month that involve minors.”)

⁸ AG Letter, *supra* note 2, at 3.

⁹ Yiota Souras, National Center for Missing and Exploited Children, Human Trafficking Investigation Hearing Testimony before the U.S. Senate’s Committee Homeland Security and Governmental Affairs, p. 7 (Nov. 19, 2015).

¹⁰ AG Letter, *supra* note 2, at 3.

¹¹ Judge Herbert Dixon, *Human Trafficking and the Internet*, 52 The Judge’s Journal 1, available at http://www.americanbar.org/publications/judges_journal/2013/winter/human_trafficking_and_internet_and_other_technologies_too.html.

¹² Sentencing Memorandum, *USA v. McIntyre*, No. 12-675 (E.D. Pa. Oct. 21, 2013), ECF No. 32; Jeremy Roebuck, *Pimp sentenced to 21 years in prison*, Philadelphia Inquirer (Aug. 20, 2014), available at http://articles.philly.com/2014-08-20/news/52988629_1_bartle-lawrence-bozzelli-young-women.

¹³ Congress recently passed the Justice for Victims of Trafficking Act of 2015, which incentivizes local law enforcement to create anti-sex trafficking task forces, expands law enforcement tools for localities that do not have task forces, and creates a funding stream for victim services. Justice for Victims of Trafficking Act of 2015, S. 58, 114th Congress (2015).

¹⁴ Since the federal anti-trafficking law, The Trafficking Victims Protection Act, was reauthorized in 2003 to include a civil remedy, 152 cases have been brought under the civil provision. Of those 152 cases, only 11 were brought by sex trafficking victims. Martina Vandenberg, *Ending impunity, securing justice*, The Human Trafficking Pro Bono Legal Center & The Freedom Fund, p. 13 (2015), available at http://www.htprobono.org/wp-content/uploads/2015/12/FF_SL_AW02_WEB.pdf

¹⁵ 18 U.S.C. § 1595 (“An individual who is a victim of a violation of [the federal anti-trafficking law] may bring a civil action against the perpetrator...”); 18 Pa. C.S. 3051(a)(1) (“An individual who is a victim of human trafficking may bring a civil action against any person that participated in the human trafficking...”).

¹⁶ Ashley Lynam, *Act 105: The Most Robust Civil Remedy Against Sex Traffickers*, The Legal Intelligencer (Sept. 18, 2015), available at <http://www.thelegalintelligencer.com/id=1202737510713/Act-105-The-Most-Robust-Civil-Remedy-Against-Sex-Traffickers?slreturn=20151122203142>

¹⁷ 18 Pa. C.S. § 3051(2)(iii)

¹⁸ See *J.S. et al. v. Village Voice*, 184 Wn.2d 96 (2015); *Jane Doe No. 1 v. Backpage.com*, No. 14-13870, 2015 U.S. Dist. LEXIS 63889 (D. Mass. May 15, 2015).

¹⁹ 47 U.S.C. § 230(c)(1)

²⁰ *Zeran v. America Online*, 129 F.3d 327, 330-31 (4th Cir. 1997); see also *Green v. America Online*, 318 F.3d 465, 470-41 (3d Cir. 2003); *Batzel v. Smith*, 333 F.3d 1018, 1031 n.19 (9th Cir. 2003) (describing Section 230 as creating “a broad immunity”); *Carafano v. Metrosplash.com*, 339 F.3d 1119, 1123-24 (9th Cir. 2003) (“Section 230 provides broad immunity” and “reviewing courts have treated Section 230 immunity as quite robust”); *Ben Ezra v. America Online*, 205 F.3d 980, 984-85 (10th Cir. 2000) (“Section 230 creates a federal immunity to any state law cause of action that would hold computer service providers liable for information originating with a third party”).

Section 230 does not provide immunity from federal criminal liability by its plain text. 47 U.S.C. § 230(e)(1).

²¹ Sophia Cope, *Court Ruling Against Backpage.com is a Setback for Online Speech in Washington State*, Electronic Frontier Foundation (Sept. 8, 2015), available at <https://www.eff.org/deeplinks/2015/09/court-ruling-against-backpagecom-setback-online-speech-washington-state>

²² *Id.*

²³ *Barnes v. Yahoo!*, 570 F.3d 1096, 1100 (9th Cir. 2009); see also *Fair Hous. Council v. Roommates.com*, 521 F.3d 1157 (9th Cir. 2008); *Chi. Lawyers Comm. for Civ. Rights v. Craigslist, Inc.*, 519 F.3d 666 (7th Cir. 2008).

²⁴ *Barnes*, 570 F.3d at 1102.

²⁵ *Id.* at 1098.
²⁶ *Id.* at 1099.
²⁷ *Id.* at 1109.
²⁸ *Id.* at 1107.
²⁹ *Id.*
³⁰ See *Fair Hous. Council v. Roommates.com*, 521 F.3d 1157 (9th Cir. 2008); *Chi. Lawyers Comm. for Civ. Rights v. Craigslist, Inc.*, 519 F.3d 666 (7th Cir. 2008).
³¹ *Roommates*, 521 F.3d at 1162-63.
³² *Id.*
³³ *Id.*
³⁴ *Id.*
³⁵ *Id.* at 1161-62.
³⁶ *Id.*
³⁷ *Id.*
³⁸ *Id.*
³⁹ *Id.* at 1166.
⁴⁰ *Id.* at 1172.
⁴¹ *Id.* at 1174.
⁴² *J.S. et al. v. Village Voice*, 184 Wn.2d 96 (2015); *Jane Doe No. 1 v. Backpage.com*, No. 14-13870, 2015 U.S. Dist. LEXIS 63889 (D. Mass. May 15, 2015).
⁴³ *J.S.*, 184 Wn at 103.
⁴⁴ *Id.* at 102-103
⁴⁵ Brief of *Amici Curiae* City and County of San Francisco, et al., at 19, *Jane Doe No. 1 et al. v. Backpage.com*, No. 15-1724 (1st Cir. Oct. 5, 2015), ECF No. 28.
⁴⁶ *Id.*
⁴⁷ Yiota Souras, National Center for Missing and Exploited Children, Human Trafficking Investigation Hearing Testimony before the U.S. Senate’s Committee Homeland Security and Governmental Affairs, p. 8 (Nov. 19, 2015).
⁴⁸ San Francisco *Amici* Brief, *supra* note 44, at 18-19.
⁴⁹ *Jane Doe No. 1*, 2015 U.S. Dist LEXIS 63889 at *6-7 (citing Plaintiffs’ Second Amended Complaint).
⁵⁰ *Id.*
⁵¹ *Id.*
⁵² *J.S. et al. v. Village Voice*, 184 Wn.2d 96, 103 (2015).
⁵³ *Jane Doe No. 1*, 2015 U.S. Dist LEXIS 63889 at *17.
⁵⁴ *Jane Doe No. 1 v. Backpage.com*, No. 15-1724 (1st Cir. 2015).
⁵⁵ San Francisco *Amici* Brief, *supra* note 44, at 14.
⁵⁶ See *Fair Hous. Council v. Roommates.com*, 521 F.3d 1157, 1170 (9th Cir. 2008)
⁵⁷ *Doe v. Internet Brands*, 767 F.3d 894, 895 (9th Cir. 2014)
⁵⁸ *Id.*
⁵⁹ *Id.*
⁶⁰ *Id.*
⁶¹ *Id.* at 900.
⁶² *Id.* at 897.
⁶³ *Id.* at 899.
⁶⁴ *Doe v. Internet Brands*, 778 F.3d 1095 (9th Cir. 2014).
⁶⁵ Robert Rogers III, *Ninth Circuit Court of Appeals Hold that Communications Decency Act Does Not Bar Actions Against Website Operators for Failure to Warn*, *Communications Lawyer* Vol. 31, No. 1, available at http://www.americanbar.org/publications/communications_lawyer/2015/january/ninth_circuit.html
⁶⁶ *Fair Hous. Council v. Roommates.com*, 521 F.3d 1157, 1164 (9th Cir. 2008)
⁶⁷ San Francisco *Amici* Brief, *supra* note 44, at 2.