



A Review Of Section 230's Meaning & Application Based On More Than 500 Cases

Internet Association (IA) analyzed more than 500 decisions from the past two decades involving Section 230 to better understand, in practice, the variety of parties using the law, how the law is being used, and how courts apply it. Here are our key findings:



Section 230 protects a wide cross-section of individuals and entities. The law has been quietly protecting local soccer parent discussion forums, nursing messaging boards, and local newspapers from liability for comment trolls for more than two decades.



Section 230 does not function as a “blanket immunity” in the courts. Section 230 immunity was only the primary basis for a court’s ruling in 42 percent of decisions reviewed. Courts rigorously analyzed the allegations and facts to determine Section 230 applicability. Many cases were dismissed for reasons other than Section 230, including (1) a flaw in the underlying claim; (2) a party not supporting an element of a claim with facts, even when the court allowed for the complaint to be amended; and (3) a lack of government action to restrain speech under the First Amendment.



Defamation is the most common claim brought under Section 230. Of the decisions reviewed, approximately 43 percent involved a defamation claim, just like in *Stratton Oakmont v. Prodigy*, the case that spurred Congress to pass Section 230.



Section 230’s “good samaritan” provision is rarely relied upon in court to justify a provider’s content moderation decision. Only 19 of 516 decisions reviewed, depended on Section 230’s “good samaritan” provision (subsection c(2)), and most of these cases concerned a provider’s efforts to block spam. Company moderation decisions are protected by the First Amendment.

Congress should undertake a full review of cases involving Section 230. This case review provides important insights into Section 230’s application in the courts, but covers only a limited sample of cases. Congress should undertake a full review of the case law before considering legislation to amend Section 230.

About Internet Association

Internet Association represents over 40 of the world’s leading internet companies. IA’s mission is to foster innovation, promote economic growth, and empower people through the free and open internet. For more information, visit www.internetassociation.org