

**WISCONSIN SUPREME COURT**  
**February 14, 2019**  
**1:30 p.m.**

2017AP344

Yasmeen Daniel v. Armslist, LLC et al.

*This is a review of a decision of the Wisconsin Court of Appeals, District IV (headquartered in Madison), which reversed a Milwaukee County Circuit Court decision, Judge Glenn H. Yamahiro presiding, that dismissed a complaint filed by Yasmeen Daniel, individually and as the special administrator of the Estate of Zina Daniel Haughton, based on the federal Communications Decency Act of 1996.*

In 2012, Radcliffe Haughton entered the Azana Spa and Salon in Brookfield, Wisconsin, where he shot and killed four people, including himself and Zina Daniel Haughton, and wounded four others. Haughton had been prohibited from gun ownership under both state and federal law due to a domestic violence injunction. Haughton had successfully purchased the gun used for the shooting through Armslist.com, a website that connects potential arms buyers and sellers with each other.

Federally-licensed firearms dealers are required to access and consider certain background information about potential buyers in order to prevent sales to individuals prohibited by law from possessing firearms. By contrast, unlicensed private sellers who are not engaged in the business of selling firearms are not required under federal law to conduct background checks.

Yasmeen Daniel, the daughter of Zina Daniel Haughton, filed multiple tort claims against Armslist, LLC, the company that created and operates Armslist.com. Her claims were dismissed in their entirety by the circuit court, based on the federal Communications Decency Act of 1996 (the CDA). The circuit court concluded that Armslist has immunity under the CDA because Daniel alleged only that Armslist passively displays content that was created entirely by third parties and simply maintained neutral policies prohibiting or eliminating certain content, and because Daniel failed to allege facts to establish that Armslist was materially engaged in creating or developing the illegal content on its page. The circuit court also dismissed Daniel's negligence per se claim against Armslist.

The Court of Appeals reversed the circuit court's order in its entirety, concluding that when applying a plain language interpretation of the CDA, the allegations in the complaint did not seek to hold Armslist liable on any theory prohibited by the CDA. The Court of Appeals also found that the circuit court erred in dismissing Daniel's negligence per se claim.

Armslist argues that the question of whether a website can be held liable under Wisconsin law for alleged breach of duties arising from the publication of a third-party user's information is a novel legal issue of great public importance.

The following issue is presented for review:

Does the CDA permit liability to be imposed under Wisconsin law against the website based on an alleged breach of duties arising from the publication of a third-party seller's information?