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7 Attorney for Plaintiffs

8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 **FAIR HOUSING COUNCIL OF SAN**
11 **FERNANDO VALLEY; FAIR**
12 **HOUSING COUNCIL OF SAN**
13 **DIEGO; each individually and on**
14 **behalf of the GENERAL PUBLIC,**

15 **Plaintiffs,**

16 **vs.**

17 **ROOMMATE.COM, LLC**

18 **Defendants.**

CASE NO. CV03-9386 PA (RZx)

(Assigned to the Honorable Percy
Anderson)

DECLARATION OF GARY
RHOADES IN OPPOSITION
OF DEFENDANT'S MOTION
FOR SUMMARY JUDGMENT

Hearing Date: Sept. 13, 2004
Time: 1:30 p.m.
Place: Courtroom 15

19 I, Gary W. Rhoades, declare:

20 1. I am the attorney for plaintiffs in this action. Plaintiffs retained me to represent
21 them in this matter in November of 2003, asking me first to try to resolve their
22 concerns with defendant before filing any litigation. As such, I have visited the
23 defendant's website numerous times, and for more specific reasons given below, I
24 have personal knowledge of the following:

25 2. On December 29, 2003 I went on-line to the Internet and then went to the
26 defendant's website located at "www.roommate.com." Exhibit 2 is a true and
27 correct copy of the defendant's website's first page from that date, along with its
28 Frequently Asked Questions page, and its Advertisers page. Exhibit 22 is a true and

1 correct copy of the defendant's website' first page from June of 2004 which I
2 downloaded with staff at FHC/SFV, including Diana Bruno.

3
4 3. On May 20, 2004 and from defendant's website at www.roommates.com, I turned
5 to the short list of "popular" cities, and I clicked on to specific links that defendant
6 provides for San Diego and then also Los Angeles. Exhibit Three (3) is a true and
7 correct copy of the two separate pages that defendant devote to San Diego and Los
8 Angeles and which I printed from defendant's website on May 20, 2004. I also
9 observed that the four other featured "popular" California cities have their own pages.

10
11 4. On March 14, 2004, I obtained a copy of the *LA Weekly*, a local newspaper with a
12 large distribution in the Los Angeles area. This issue is dated March 12-18, 2004,
13 Vol. 26/No.16. The Weekly's classified section includes a section entitled "Real Estate
14 Services." The defendant placed an advertisement for its services under this section.
15 The defendant's ad is one of the longer ads in the real estate section, containing
16 twenty-three words that trumpet defendant's services and end with "Visit
17 www.Roommates.com." Since that March 2004, I have seen advertisements placed
18 by defendants in the Los Angeles Weekly in at least four other issues. It appears as
19 though the defendant has an advertisement that runs continuously in Los Angeles in
20 at least one major print advertisement source. I have also personally observed that the
21 defendant's ad also appears in the Pasadena Weekly and the San Diego City Beat.

22
23 5. On November 21, 2003, Plaintiffs through me sent Defendant a substantive
24 education and demand letter. By December 12, 2003 the plaintiffs' had made
25 considerable pre-litigation attempts to resolve these issues with defendant, and on that
26 date defendant admitted in writing that there had been at least one prior fair housing
27 complaint delivered to defendant regarding statements posted on its website.

28

1 However, in that same letter defendant stated in writing that "Roommates.com is both
2 unable and unwilling to monitor, edit, or screen the individual listings."

3
4 6. On May 23, 2004 I visited the defendant's website and under the "Preview" page,
5 I asked to see all rental property listings in the Los Angeles area. The defendant's
6 website presented 2,621 listings for Los Angeles properties posted by defendants.
7 The great majority of these listings include photographs, maps and comments.

8
9 7. On May 23, 2004 I visited the defendant's website and under the "Preview" page,
10 I asked to see all rental property listings in the San Diego area. The defendant's
11 website presented 3,917 listings for San Diego properties posted by defendants.

12
13 8. On May 23, 2004 I visited the defendant's website and under the "Preview" page,
14 I asked to see all rental property listings in the San Jose area. The defendant's website
15 presented 3,528 listings for San Jose properties posted by defendants.

16
17 9. On May 23, 2004 I visited the defendant's website and under the "Preview" page,
18 I asked to see all persons looking to for a place to live in the Los Angeles area. The
19 defendant's website presented 11,512 listings that defendant had posted for its
20 members in Los Angeles that were looking for rooms.

21
22 10. On December 9, 2003 I visited the defendant's website at www.roommates.com.
23 I first previewed how many rental properties were available in Los Angeles and there
24 were over 2,226 provided. I requested a free membership, which was granted, but
25 then realized that I could not see photographs, maps, comments and then mail from
26 potential landlords and roommates unless I paid the defendant for a Choice
27 membership. The only option provided for doing this was to provide a credit card
28

1 number over the internet to the defendant. Using my credit card, I paid defendant for
2 a Choice membership.

3
4 11. On May 23, 2004 I went on-line to the Internet and then went to the defendant's
5 website located at "www.roommate.com." Referring to Plaintiffs' Exhibit 4 at page
6 one (which I printed from defendant's website on May 23, 2004), I clicked onto the
7 link entitled "Privacy Statement". Here, defendant described the registration process
8 as well as how "Here, a user must provide contact information and financial
9 information (like credit card number, expiration date)" and that if billing becomes a
10 problem, defendant will use the contact information to contact the customer.
11 Defendant also informs its customer that defendant will store a "cookie" on the
12 customer's harddrive. This statement also invites the customer to subscribe to the
13 defendant's "newsletter." Exhibit 4 is a true and correct copy of defendant's privacy
14 statement as shown on May 23, 2004. Ex. 8 is a true and correct copy of defendant's
15 pages with information fields requiring preferences or characteristic.

16 12. Ex. 25 is a true and correct copy of the pages from rental websites on the internet
17 (such as Westside Rentals) that I downloaded on June 25, 2004, as well as press
18 releases regarding the fair housing work and concerns of other websites.

19 13. Ex. Twenty-Three is a true and correct copy of the "Quick Tour" I downloaded
20 from the Support Page on Defendant's Website offering to Order Matches by Age.

21 14. Ex. Twenty-One is a true and correct copy of the General Search Fields Using
22 Criteria and Preferences and which I downloaded from Defendant's Website.

23 15. Ex. Sixteen are all true and correct copies of Listings Found in **June 2004** by
24 myself and with members of plaintiff's staffs.

25 16. Ex. Seventeen is a true and correct copies of the Keyword Search feature available
26 on Defendant's website before this action was filed and later removed.

27 17. Exhibits 9-14 are all true and correct copies of rental listings I downloaded from
28

1 defendant's website with the assistance of Plaintiffs' staffs.

2 18. I have today, August 18, 2004, and on June 29, 2004 reviewed all the pages of
3 defendant's website and I find no references whatsoever to the fair housing laws or
4 concerns about housing discrimination or discriminatory statements.

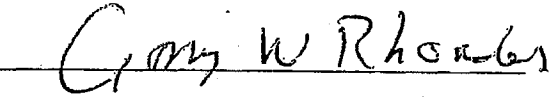
5
6 19. The pages attached as Ex. 25 are from my Certified Copy of the Deposition
7 Transcript for Bryan Peters Deposition on July 27, 2004 in Scottsdale, Arizona.

8 20. The pages attached as Ex. 26 are a collection of Press Releases I personally
9 downloaded from the internet on August 26, 2004, including from the United States'
10 Department of Justice's website, regarding fair housing litigation against a rental
11 website called www.sublet.com. The Press Release is followed by www.sublet.com's
12 first page today (it has obviously survived and is doing well). The Apartments.com
13 press release I downloaded today from www.apartments.com, and the final press
14 releases I downloaded from www.fairhousing.com.

15
16 21. The pages attached as Ex. 27 as pages 84-91 are from my Certified Copy of
17 Deposition of Bryan Peters.

18
19 22. The page attached as Ex. 28 from Defendant's Website entitled "How do I change
20 my status from "looking for a room" to "renting a room" (or vice versa)?"

21
22 I declare under penalty of perjury under the laws of the United States and
23 California that the above is true and correct. Executed on 8-26-04 in Los
24 Angeles, California.

25 
26 Gary W. Rhoades