

Booksellers, Artists, ACLU Seek to Bar Utah Law Restricting Speech on Internet

MEDIA ADVISORY

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MEDIA CONTACTS:

Darcy M. Goddard, Legal Director, ACLU of Utah, 801.521.9862 x.108

Michael Bamberger, Partner, SNR Denton US LLP, 212.768.6756

David Horowitz, Executive Director, Media Coalition, 917.701.5552

Mark Stanley, New Media Manager, Center for Democracy & Technology, 202.407.8839

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SALT LAKE CITY, Utah—A coalition including booksellers, media companies, artists, and the ACLU of Utah today asked the federal district court in Salt Lake City to permanently bar enforcement of a Utah statute that restricts constitutionally-protected speech on the Internet. Although passed in 2005, the statute has not been in effect because Utah consented to a temporary injunction barring its enforcement.

Utah's law seeks to regulate all Internet speech that some might consider "harmful to minors," including works of visual art, photography, graphic novels, and information about sexual health and the rights of lesbian, gay, bisexual, and transgender youth.

The plaintiffs are represented in *Florence v. Shurtleff*, No. 05-CV-485 (United States District Court, District of Utah) by Michael Bamberger, a partner of SNR Denton US LLP and general counsel of Media Coalition; Darcy Goddard, legal director of the American Civil Liberties Union of Utah Foundation, Inc.; and John B. Morris, general counsel of the Center for Democracy & Technology.

"Utah's statute, like those invalidated elsewhere, imposes sweeping burdens on constitutionally-protected speech," said Mr. Bamberger, who has successfully brought suit to invalidate similar statutes in other states, including New Mexico, Arizona, and Massachusetts.

"It is simply impossible for every person who makes available on the Internet constitutionally protected information, such as our "Know Your Rights" materials for students and LGBT youth, or paintings or photographs depicting nudes, to anticipate and monitor every person who might access that information and restrict access to those minors to whom the information might be considered 'harmful,'" said Ms. Goddard. "There are other options available, such as parental controls, that could accomplish the state's goal of protecting minors more effectively and within the bounds of the First Amendment."

"The law also harms Utah businesses' ability to compete with non-Utah companies in the Internet hosting service market," noted Mr. Morris. "Companies that publish

mainstream, First Amendment-protected material may face risk of criminal liability if they use Utah, rather than non-Utah, web hosts."

Plaintiffs in the case include Media Coalition members the American Booksellers Foundation for Free Expression, the Association of American Publishers, the Comic Book Legal Defense Fund, and the Freedom to Read Foundation. Additional plaintiffs are the American Civil Liberties Union of Utah, the Independent Book Publishers Association, painter Nathan Florence, and the Sexual Health Network.

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Copies of the motion for summary judgment and supporting materials can be found here, along with a detailed history of the case: <http://mediacoalition.org/The-Kings-English-v.-Shurtleff>