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JUDGE PERMITS CHALLENGE TO UTAH HARMFUL TO MINORS ACT TO PROCEED

Salt Lake City, UT - In an opinion and order issued today, Judge Dee Benson of the U.S. District Court in Salt Lake City denied an attempt by Attorney General Shurtleff to dismiss a challenge to the Utah Harmful to Minors Act, as recently amended. The challenge was brought by local and national booksellers, including locally owned The King's English Bookstore and Sam Weller's Zion Bookstore, mainstream national media groups, and internet providers, among others. The law suit was brought by plaintiffs on grounds that the Utah Harmful to Minors Act, although meant to protect children from sexually explicit material on the Internet, instead unconstitutionally restricts the access of adults to First Amendment-protected material, limits the free speech rights of Internet content providers, could negatively impact Internet users who have no wish to restrict the sites to which they have access, acts as a prior restraint on Internet service providers' speech, and violates the Commerce Clause of the United States Constitution.

As to the primary challenge to the definition of "harmful to minors" and the application of the law to Internet transmissions, the Court found today that eight of the plaintiffs have standing to challenge these provisions and that therefore it could proceed.

The Court also found that the ACLU of Utah and an individual plaintiff, Nathan Florence, have standing to challenge another new provision that requires mandatory labeling of websites as "harmful to minors" in certain circumstances.

The court addressed two other claims and decided that they should not be litigated at this time. For one claim, the court interpreted a very vague statutory provision in a narrow manner, such that the provision would not create any significant legal risks for the plaintiffs. On a final claim, the court concluded that plaintiffs' claims were premature because the state of Utah has yet to issue regulations implementing the provision.

This decision now permits the case and its challenge to the Utah "harmful to minors" and mandatory labeling provisions to proceed on the merits.

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