

D. John McKay, Esq.
Law Offices of D. John McKay
117 E. Cook Ave.
Anchorage, Alaska 99501
(907) 274-3154
Alaska Bar No. 7811117
Attorney for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF ALASKA**

**AMERICAN BOOKSELLERS FOUNDATION FOR FREE
EXPRESSION; AMERICAN CIVIL LIBERTIES UNION
OF ALASKA; ASSOCIATION OF AMERICAN
PUBLISHERS, INC.; COMIC BOOK LEGAL DEFENSE
FUND; ENTERTAINMENT MERCHANTS
ASSOCIATION; FREEDOM TO READ FOUNDATION;
DAVID & MELISSA LLC d/b/a Fireside Books; BOOK
BLIZZARD LLC d/b/a Title Wave Books; BOSCO'S, INC.;
DONALD R. DOUGLAS d/b/a Don Douglas Photography;
and ALASKA LIBRARY ASSOCIATION,**

Plaintiffs,

v.

**DANIEL S. SULLIVAN, in his official capacity as
ATTORNEY GENERAL OF THE STATE OF ALASKA,**

Defendant.

Civil No. 3:10-cv-00193-RRB

DECLARATION OF JOHN WEDDLETON

**UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA**

**AMERICAN BOOKSELLERS FOUNDATION FOR FREE
EXPRESSION; AMERICAN CIVIL LIBERTIES UNION
OF ALASKA; ASSOCIATION OF AMERICAN
PUBLISHERS, INC.; COMIC BOOK LEGAL DEFENSE
FUND; ENTERTAINMENT MERCHANTS
ASSOCIATION; FREEDOM TO READ FOUNDATION;
DAVID & MELISSA LLC d/b/a Fireside Books; BOOK
BLIZZARD LLC d/b/a Title Wave Books; BOSCO'S, INC.;
DONALD R. DOUGLAS d/b/a Don Douglas Photography;
and ALASKA LIBRARY ASSOCIATION,**

Plaintiffs,

v.

**DANIEL S. SULLIVAN, in his official capacity as
ATTORNEY GENERAL OF THE STATE OF ALASKA,**

Defendant.

Civil No.

DECLARATION OF JOHN WEDDLETON

I, John Weddleton, do declare:

1. I am the owner of Bosco's Inc. ("Bosco's"), an Alaska corporation with its principal place of business in Anchorage, Alaska and a plaintiff in this action. I submit this declaration on behalf of Bosco's, its employees, customers, and the users of its website, in support of the plaintiffs' request for a declaration of unconstitutionality and preliminary and permanent injunctive relief prohibiting enforcement of AS 11.61.128 as amended by SB 222 (the "Amended Act"), and as prior to amendment (the "Prior Act").

2. Bosco's operates two bookstores in Anchorage, Alaska. These stores carry a broad range of comics, graphic novels, manga, sports and nonsports cards and other goods. It stocks over 6,000 graphic novels and manga titles and more than 100,000 comic books in its stores.

Bosco's also operates a website (www.boscocos.com) (the "Website") on which visitors may obtain information, both written and pictorial, about Bosco's and the material it has available, and an eBay store and amazon.com store at which material is for sale. Some of the material in the stores and some links from www.boscocos.com described on the Website may relate to sexual themes and topics, and some of the material may be considered by some to be "harmful to minors."

3. Were the Amended Act to be enforced, Bosco's would be "chilled" in determining what materials would be carried in its stores and featured and described on its Website, and how they would be featured and described.

FEAR OF PROSECUTION UNDER THE AMENDED ACT

4. Plaintiff Bosco's fears prosecution under the Amended Act because it carries in its stores, and its Website on occasion contains material that may be considered by some to be "harmful to minors," and this material may be accessed by minors who browse its stores or its generally-accessible Website.

5. Bosco's uses its Website in part to list available titles and show images and excerpts of material that it carries. Some of these titles and images may contain material which depicts sexual activity or sexual excitement, making their appearance on the Web subject to the Amended Act. Recently the Website featured the winning entries in a manga/anime art contest. Other materials which appear or have appeared on the Website include N.Y. Times best seller *The Watchmen*, Eisner Award winning *Scott Pilgrim Vs The World*, Robert Crumb's verbatim telling of *Genesis* and the best selling manga *Naruto* .

6. Under the Amended Act, employees of Bosco's could be prosecuted for displaying or selling materials in its stores, or for posting excerpts, images and other material to Bosco's Website. In order to ensure that Bosco's does not make any "matter" that is "harmful to

minors” available to a minor, it will be forced to eliminate nudity and sexually-themed images and excerpts from its stores and its Website entirely. Because the Amended Act is vague as to what matter is “harmful to minors,” and what may be considered harmful to a younger minor may not be considered harmful to an older minor, Bosco’s would be forced to eliminate all matter in its stores and on its Website that could be harmful to even the youngest minor capable of browsing its stores or its Website.

7. The Amended Act is already causing problems. For many years we have bagged and taped shut with packaging tape titles that we think are adult, and we have put stickers with the word “Mature” on them. This hurts sales. My staff has become very nervous and is bagging far more titles now. This limits sales on great stories, frustrates customers who want to look at a comic before buying it, and costs a great deal of staff time to process these titles.

8. Bosco’s seeks to provide the widest possible range of comics, graphic novels, manga, sports and nonsports cards and other goods to its customers, including materials that are protected by the First Amendment. The Amended Act would seriously curtail its ability to do so.

9. I have the same concerns as to Bosco’s Website, only more so, were the Amended Act enjoined and the Prior Act, of which I was previously unaware, reinstated. The Prior Act does not consider the material taken as a whole and applies to material having serious value to minors.

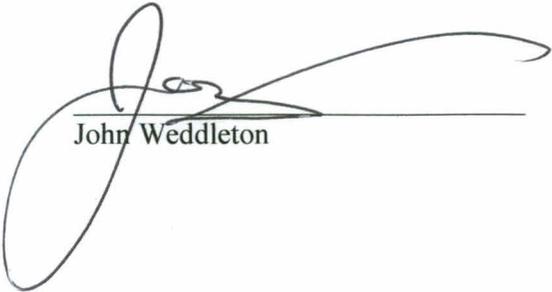
10. If the Amended Act and the Prior Act are not enjoined, Bosco’s is also likely to suffer lost profits and decreased patronage. It will be forced to self-censor the books and content in its stores and on its Website, thereby presenting its customers with an incomplete or inadequate presentation of books and other materials.

CONCLUSION

11. If the Amended Act and the Prior Act are not enjoined, Bosco's, its employees, customers, and the users of its Website will be irreparably harmed. Bosco's will be forced either to limit the content available in its stores and on its Website, denying its customers and the users of its Website access to Constitutionally-protected material, or risk criminal liability.

I declare under penalty of perjury that the above is true and correct to the best of my knowledge.

Executed on this 27
day of August, 2010.



John Weddleton

10415408