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**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 JULIE DRAKE

**UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA**

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DECLARATION OF JULIE DRAKE

I, Julie Drake, do declare:

1. I am a member of Book Blizzard LLC, d/b/a Title Wave Books (“Title Wave Books”), a plaintiff in this action. I submit this declaration on behalf of Title Wave Books, 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. Title Wave Books operates a bookstore in Anchorage, Alaska, its principal place of business. It carries a broad range of new and used books and recordings. It currently stocks over 250,000 titles in its store. Over the past seven years it has had 1,474,535 different titles in its

inventory. The titles that Title Wave Books carries include both fiction and non-fiction works about sexual relationships.

3. Title Wave Books also operates a website, www.wavebooks.com, which is in the process of being upgraded. Visitors will be able to obtain information, both written and pictorial, about Title Wave Books and the books and recordings it has available. Some of the books which will be available on the website relate to sexual themes and topics.

FEAR OF PROSECUTION UNDER THE AMENDED ACT

4. Title Wave Books fears that it may be at risk of prosecution under the Amended Act for displaying or selling constitutionally protected material which might be deemed “harmful to minors” on its website. The Amended Act prohibits a person from making available to minors in Alaska any material that is “harmful to minors.” I do not know how to determine what content may cross this vague line, particularly since what may be appropriate for a 15 year old may not be appropriate for a 11 year old.

5. Further, the Amended Act does not require knowledge of the character and content of the material or that the recipient is under 16. Given the volume of books that we carry, there is no way for me and my staff to read or review each title completely. Title Wave Books fears prosecution for the unknowing distribution to a person whom it may not know is under 16 of material that may be deemed to contain depictions which are harmful to minors.

6. I have the same concerns as to my 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.

7. The only certain way for Title Wave Books to prevent making available to minors any “matter” that is “harmful to minors” is to entirely eliminate all sexually frank matter or nude

photographs or depictions from its store and its website. The loss of in-store and online sales would be extremely damaging.

8. Title Wave Books has used its website in part to list available titles and show book covers, and will do so again once its website is upgraded. Some of these titles or book covers may contain material that depicts sexual activity or sexual excitement, and their appearance on the website would be subject to the Amended Act.

9. Many of the fine literary, artistic and non-fiction works carried by my bookstore, as well as others, such as *The Chocolate War* by Robert Cormier, the *Vampire Academy* novels by Richelle Mead, *An Atlas of Anatomy for Artists, Enlarged Revised Edition with 85 New Plates from Leonardo, Rubens, Michelangelo, Muybridge, Vesalius, et al.*, by Fritz Schider, and *A World of Art*, by Henry M. Sayre, may be considered by some people in Alaska to be “Harmful to Minors.” The heroine of the current bestseller *The Girl with the Dragon Tattoo* is a bisexual computer hacker, and the novel is sexually explicit. Under the Amended Act, I or others at Title Wave Books could be prosecuted for simply displaying or selling such books in our store, or for posting to Title Wave Books’s website excerpts or images from material that we carry. Given that all of this is protected by the First Amendment, this is an intolerable situation.

10. If the Amended Act and the Prior Act are not enjoined and Title Wave Books must self-censor the books and content in its store and on its website, it will lose profits from the sale of those books, and it will likely lose further business because it will appear that the bookstore has an incomplete or inadequate listing of books in its inventory. It will also lose

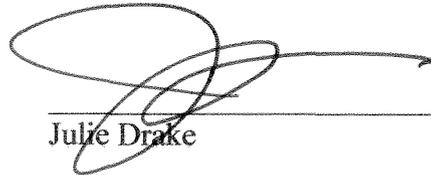
much of its ability to promote itself on its website using images and excerpts from the books and other materials it carries.

CONCLUSION

11. If the Amended Act and Prior Act are not enjoined, Title Wave Books, its customers, and the users of its website will be irreparably harmed. Title Wave Books will be forced either to self-censor the content available in our store and on our website, denying our customers and the users of our 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 26
day of August, 2010.



Julie Drake