

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

**ENTERTAINMENT SOFTWARE
ASSOCIATION AND ENTERTAINMENT
MERCHANTS ASSOCIATION**

**CIVIL ACTION NO.
06-431-JJB-CN**

Plaintiffs

VERSUS

SECTION

**CHARLES C. FOTI, in his official
capacity as Attorney General of the State of
Louisiana; and DOUG MOREAU, in his
official capacity on behalf of himself as
District Attorney for the Parish of East
Baton Rouge, and on behalf of a class of
similarly situated individuals in their official
capacities**

JUDGE BRADY

COMPLAINT- CLASS ACTION

Defendants

MOTION TO DISMISS PURSUANT TO FRCP RULES 12(b)(1) and (6)

NOW INTO COURT, through undersigned counsel, comes Charles C. Foti, Jr., Attorney General, in his official capacity, who moves that plaintiff’s complaint against him be dismissed pursuant to FRCP Rule 12(b)(1) and (6) as follows:

1.

Plaintiff’s complaint fails to articulate any claim over which this Court could exercise subject matter jurisdiction as it does not present a justiciable “case or controversy” as required by Article III of the United State Constitution.

2.

Plaintiff’s complaint fails to state a claim upon which relief can be granted because this Court should abstain under the *Pullman* doctrine.

3.

The grounds for this Motion are more particularly set forth in the contemporaneously filed memorandum in support of this motion.

WHEREFORE, Mover prays that this Motion be granted and that the Court dismiss plaintiff's claims against him with prejudice and at plaintiff's cost.

Respectfully submitted,

**CHARLES C. FOTI, JR.
ATTORNEY GENERAL**

BY: /s David G. Sanders

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ASSISTANT ATTORNEYS GENERAL**

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been served upon counsel for all represented parties and has been served upon all pro se parties to this proceeding by mailing the same to each by first class United States mail, properly addressed and postage prepaid on this 27th day of June, 2006.

**/s David G. Sanders
DAVID G. SANDERS**

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