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**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH**

THE KING'S ENGLISH, INC. et al.,

Plaintiffs,

vs.

MARK SHURTLEFF et al.,

Defendants.

**MOTION FOR ENTRY OF STIPULATED ORDER**

Civil No. 2:05CV00485 DB

Judge Dee Benson

Plaintiffs and Defendants respectfully move this Court for entry of a stipulated order incorporating the agreement between the parties that (1) Defendants will not, for the period set forth in the stipulation, enforce the challenged provisions of H.B.260 (2005 Leg. Session) (the "Act") against any person or entity, and (2) Defendants will not, for the period set forth in the stipulation, enforce Utah Criminal Code section 76-10-1206 against any person or entity with

respect to harmful to minors material which is communicated, distributed or transmitted electronically, except when the material is intended to be, and is, communicated, distributed or transmitted to one or more specific identifiable persons actually known to the communicator, distributor or transmitter to be minors.

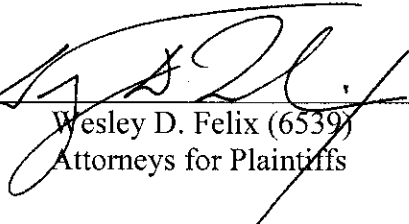
In this action, Plaintiffs have sued Utah's Attorney General (in his official capacity) and the district and county attorneys for all counties in Utah (in their official capacities) challenging the constitutionality of the Act and asserting, *inter alia*, that the Act is preempted, in part. Plaintiffs specifically challenge the following sections of the Utah Code which were either enacted or amended by the Act: Section 2 (enacting 67-5-19); Section 4 (amending 76-10-1205); Section 5 (amending 76-10-1206); Section 6 (enacting 76-10-1230); Section 7 (enacting 76-10-1231); Section 8 (enacting 76-10-1232); and Section 9 (enacting 76-10-1233). In addition, during discussions with Defendants, Plaintiffs learned that Defendants contend that 76-10-1206 applied to the Internet prior to the amendment of that section by the Act.

Rather than unnecessarily increase the cost of this litigation by requiring Plaintiffs to seek injunctive relief against the enforcement of the Act and 76-10-1206 as it applies to the Internet, Defendants have agreed to not enforce the Act and section 76-10-1206 as it applies to harmful to minors material which is communicated, distributed or transmitted electronically, except when the material is intended to be, and is, communicated, distributed or transmitted to one or more specific identifiable persons actually known to the communicator, distributor or transmitter to be minors, with respect to any acts occurring until after the earlier of a decision by the Court on the merits, or 30 days after written notice to Plaintiffs, thereby allowing Plaintiffs time to move for injunctive relief if necessary. The parties are discussing alternative resolutions to Plaintiffs' claims and this Order allows the parties to continue discussions about resolving those claims while avoiding unnecessary litigation costs.

DATED this <sup>Number</sup> 22<sup>d</sup> day of ~~October~~, 2005.

**HOWREY LLP**  
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By



Wesley D. Felix (6539)  
Attorneys for Plaintiffs

**CERTIFICATE OF SERVICE**

I hereby certify that on this 23rd day of November, 2005, a true and correct copy of the foregoing was served upon the person(s) named below, at the address set out below the name, either by mailing postage prepaid, hand-delivery, Federal Express, or by telecopying a true and correct copy of said document.

Jerrold Jensen  
Assistant Attorney General  
State Agency Counsel Division  
160 East 300 South, 5<sup>th</sup> Floor  
Salt Lake City, UT 84114

- U.S. Mail
- Federal Express
- Hand-Delivery
- Telefacsimile
- Other

*Carl B.*

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