EXHIBIT F

COFA NORTH CAROLINA

AND THE LITIGATION SUPPORTING IT

AGAINST GOOGLE, SAMSUNG, VERIZON,

MICROSOFT, DELL, LG, PLANNED PARENTHOOD

BEFORE THE 6TH CIRCUIT COURT OF

APPEALS REGARDING OBSCENITY

AND COMPELLING INTERESTS OF THE STATE.

AUTHORED BY SEVIER FOR ALL 50 STATES

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

SESSION LAW 2017_____
HOUSE BILL_____

SB_____

Introduced By_____

AN ACT (1) DECLARING PORNOGRAPHY A PUBLIC HEALTH CRISIS AND THE CHILD ONLINE FILTER ACT (COFA), PROTECTING CHILDREN FROM OBSCENITY BY MAKING MANUFACTURES AND WHOLESALERS OF PRODUCTS THAT DISTRIBUTE THE INTERNET SELL THEIR PRODUCTS WITH PRESET FILTERS THAT CAN ONLY BE REMOVED ON CONDITION THAT ACCORDS WITH THE EXISTING DISPLAY LAWS

Whereas, the state of North Carolina has a compelling interest in protecting the public health;
Whereas, the state North Carolina has a compelling interest in protecting minors from being exposed to obscenity through products sold by Manufacturers and Wholesalers that distribute the Internet; Whereas, the State of North Carolina has a compelling interest to protect consumers' freedom to choose to avoid exposure to obscenity without consent;
Whereas the State of North Carolina has a compelling interest to not necessarily make it easy for Manufacturers and Wholesalers to promote obscenity that objectifies women, encourages child exploitation, and sexual voyeurism, given the secondary harmful effects recognized by the Supreme Court;
Whereas the State of North Carolina has a compelling interest to impose a filter deactivation tax as a matter of general equity to the tax imposed on strip clubs, cigarettes, and alcohol to offset secondary harmful effects that products that distribute the internet is encouraging;
Whereas obscenity has never been in the area of protected speech;
Whereas the State of North Carolina has a compelling interest to not treat bricks and mortar pornography shops under a different standard than Wholesalers and Manufacturers that sell and make products that distribute the internet;
Whereas the products that distribute the internet and make its content accessible amount to a miniature Wholesaler that is an extension of the primary Wholesaler and Manufacturer under vicarious liability and agency law;

Whereas products that distribute the internet never fully leave the instrumentality and control of the manufacturer and wholesaler, elevating the duty of care under this State's product liability law;

Whereas online pornography is an advertisement for prostitution;

Whereas products of Manufacturers and Wholesalers that distribute the internet are subject to existing display statute § 14-190.14;

Whereas obscenity is not protected speech for purposes of the first amendment, *Miller* v. *California*, 413 U.S. 15, 3034 (1973);

Whereas the United States Supreme Court found that Congress can pass filter legislation to regulate the Tech Enterprise as the least restrictive means under *Ashcroft v. ACLU,* 542 U.S. 656, 673 (2004) and *Ginsberg v. New York*, 390 U.S. 629, 639–40, 88 S.Ct. 1274, 20 L.Ed.2d 195 (1968);

Whereas the State of North Carolina has a compelling interest to shift the burden off of those who want to avoid being exposed to obscene speech and on to those who want to assume the risks that come from accessing obscene content;

Whereas the State of North Carolina has a compelling interest to compare the products sold by Manufacturers and Wholesalers that distribute the web to pornographic vending machines;

Whereas the State of North Carolina has a compelling interest to make "prevention," not "prosecution," the first response to sex crimes that obscenity inspires and encourages;

Whereas the State of North Carolina has a compelling interest to make Wholesalers and Manufacturers of products that distribute the internet warn adult consumers of the harm of accessing obscene content, if they want the filter deactivated;

Whereas the State of North Carolina has a compelling interest to make Wholesalers and Manufacturers of products that distribute the internet maintain the quality of the digital blinder racks that hold the bank of pornography at bay;

Whereas the State of North Carolina has a compelling interest to make websites that are known prostitution hubs harder to access in order to reduce the burden imposed on law enforcement and the justice system and the victims of human trafficking;

Whereas the State of North Carolina has a compelling interest to make Manufacturers and Wholesalers of products that distribute the internet to comply with their publicly acknowledged "moral responsibility" to keep pornography off of their products by default;

Whereas the State of North Carolina has a compelling interest to protect consumers from false advertisements regarding the the family friendliness products that distribute the internet;

Whereas the State of North Carolina has a compelling interest to make the objective "easy choice" the "right choice" to protect emotional, mental, relational, reproductive, sexual, and spiritual health of consumers that accords with the truth about our nature and the way things are;

Whereas the State of North Carolina has a compelling interest to make Wholesalers and Manufacturers of products that distribute the internet give consumers the fundamental right to regulate their own mental health;

Whereas the State of North Carolina has a compelling interest to not only declare that pornography is a public health crisis but to impose common sense filter legislation by pushing obscenity back underground from whence it came before the Manufacturers and Wholesalers of products that distribute the internet brought it above ground;

The State of North Carolina Enacts:

PART ONE: PORNOGRAPHY IS A PUBLIC HEALTH CRISIS

Section 1:

LONG TITLE

General Description:

This concurrent resolution of the Legislature and the Governor recognizes that pornography is a public health hazard leading to a broad spectrum of individual and public health impacts and societal harms.

Highlighted Provisions:

This resolution: recognizes that pornography is a public health hazard leading to a broad spectrum of individual and public health impacts and societal harms; and recognizes the need for education, prevention, research, regulation over the manufacturers and wholesalers of products that play a role in distributing the internet, and policy change at the community and societal level in order to address the pornography epidemic that is harming the citizens of North Carolina and the nation.

Special Clauses:

None

Section 2

Be it resolved by the Legislature of the state of North Carolina, the Governor concurring therein:

WHEREAS, pornography is creating a public health crisis;

WHEREAS, pornography perpetuates a sexually toxic environment;

WHEREAS, efforts to prevent pornography exposure and addiction, to educate individuals and families concerning its harms, and to develop recovery programs must be addressed systemically in ways that hold broader influences accountable;

WHEREAS, pornography is contributing to the hypersexualization of teens, and even prepubescent children, in our society;

WHEREAS, due to advances in technology and the universal availability of the Internet, young children are exposed to what used to be referred to as hard core, but is now considered mainstream, pornography at an alarming rate;

WHEREAS, the average age of exposure to pornography is now 11 to 12 years of age;

WHEREAS, this early exposure is leading to low self-esteem and body image disorders, an increase in problematic sexual activity at younger ages, and an increased desire among adolescents to engage in risky sexual behavior;

WHEREAS, exposure to pornography often serves as childrens' and youths' sex education and shapes their sexual templates;
WHEREAS, because pornography treats women as objects and commodities for the viewer's use, it teaches girls they are to be used and teaches boys to be users;
WHEREAS, pornography normalizes violence and abuse of women and children;
WHEREAS, pornography treats women and children as objects and often depicts rape and abuse as if they are harmless;
WHEREAS, pornography equates violence towards women and children with sex and pain with pleasure, which increases the demand for sex trafficking, prostitution, child sexual abuse images, and child pornography;
WHEREAS, potential detrimental effects on pornography's users can impact brain development and functioning, contribute to emotional and medical illnesses, shape deviant sexual arousal, and lead to difficulty in forming or maintaining intimate relationships, as well as problematic or harmful sexual behaviors and addiction;
WHEREAS, recent research indicates that pornography is potentially biologically addictive, which means the user requires more novelty, often in the form of more shocking material, in order to be satisfied;
WHEREAS, this biological addiction leads to increasing themes of risky sexual behaviors, extreme degradation, violence, and child sexual abuse images and child pornography;
WHEREAS, pornography use is linked to lessening desire in young men to marry, dissatisfaction in marriage, and infidelity;
WHEREAS, this link demonstrates that pornography has a detrimental effect on the family unit; and
WHEREAS, overcoming pornography's harms is beyond the capability of the afflicted 63 individual to address alone:
NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of North Carolina, the Governor concurring therein, recognizes that pornography is a public health hazard leading to a broad spectrum of individual and public health impacts and societal harms.
BE IT FURTHER RESOLVED that the Legislature and the Governor recognize the need for education, prevention, research, and policy change at the community and societal level in order to address the pornography epidemic that is harming the people of our state and nation.
BE IT FURTHER RESOLVED that the Legislature and the Governor recognize products that distribute the internet are effectively pornography vending machines that are in need of regulation.
BE IT FURTHER RESOLVED that the Legislature and the Government recognize that the Manufacturers and Wholesalers of products that distribute the internet have not complied with North Carolina's obscenity codes.

PART II: COFA (Child Online Filter Act)

Section 2: Digital Display Laws Apply To Products That Distribute The Internet Amending NC § 14-190.14 (Displaying material harmful to minors).

(a) Bricks and mortar Wholesalers in the state of North Carolina that distribute obscene material through their commercial place of retail are required to put the obscene material behind a "blinder rack" and not on display in compliance with § 14-190.14.[1] Manufacturers and Wholesalers of products that distribute and/or make accessible content on the internet within the State of North Carolina amount to miniature retail stores that are an extension to the primary Manufacturer and Wholesaler. Henceforth, Manufacturers' and Wholesalers' that sell products that distribute and/or make content on the internet available shall be subjected to § 14-190.14 (Displaying material harmful to minors) to include the remaining sections § 14-190.13- § 14-202.5.

(b) The Wholesalers and Manufacturers must install custom made digital blinder racks that make a reasonable and ongoing attempt to to hold the bank of pornography that is accessible through their products behind the shield.

(c) Manufacturers and Wholesalers of products that distribute and/or make accessible content on the internet shall not make the mechanism to disable to filter available to the public or the consumer, unless certain conditions are met.

Section 3: Duty To Warn And Duty To Deactivate The Filter Upon Conditions

(a) Manufacturers and Wholesalers of products that distribute the internet shall not permit their products to leave the Wholesaler or Manufacturer without pre-installed and activated filters that are set to block obscenity that could otherwise be accessible within the device.

(b) The Manufacturer and Wholesaler must withhold and keep confidential the mechanism to deactivate the filter from the consumer and public. The Manufacturer and/or Wholesaler will not deactivate the filter unless certain conditions are met.

(c) The Manufacturer and/or Wholesaler must deactivate the filter if the consumer:

(1) requests that the filter be disabled;

(2) verifies that they are not a minor at a face to face encounter with the Wholesaler or Manufacturer; and

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[1] **§ 14-190.14. Displaying material harmful to minors.**

(a) Offense. - A person commits the offense of displaying material that is harmful to minors if, having custody, control, or supervision of a commercial establishment and knowing the character or content of the material, he displays material that is harmful to minors at that establishment so that it is open to view by minors as part of the invited general public. Material is not considered displayed under this section if the material is placed behind "blinder racks" that cover the lower two thirds of the material, is wrapped, is placed behind the counter, or is otherwise covered or located so that the portion that is harmful to minors is not open to the view of minors.

(b) Punishment. - Violation of this section is a Class 2 misdemeanor. Each day's violation of this section is a separate offense. (1985, c. 703, s. 9; 1993, c. 539, s. 125; 1994, Ex. Sess., c. 24, s. 14(c).)

(3) provides consent to filter deactivation after the Wholesaler or Manufacturer serves the consumer with a written warning regarding the potential danger of filter deactivation as set forth under Part I.

Section 4: Criminal Liability For Selling Filterless Products To Minors

(a) A Manufacturer or Wholesaler of products that distribute and/or that make available the content on the internet that sells a product without activated filters set to block obscenity as defined under § 14-190.13 et. seq. will constitute a Class 2 misdemeanor under § 14-190.14.

(b) If the Manufacturer or Wholesaler of products that distribute and/or that make available the content on the internet sells a filterless product to a minor, it will constitute a Class 1 misdemeanor under § 14-190.15(d).

(c) A Manufacturer or Wholesaler of products that distribute and/or that make available the content on the internet that provides a minor with the mechanism to deactivate the preset filter that is designed to block obscenity as defined under § 14-190.13 et. seq. will constitute a class 1 misdemeanor under § 14-190.15.

Section 5: Products That Distribute The Internet Are Pornogrpahic Vending Machines

Internet Service Providers' routers, cell phones, laptops, computers, gaming devices and other products that distribute the internet and/or make the content on the internet available amount to pornographic vending machines and shall be treated as such under this act.

Section 6: Immunity For Parents

If a parent purchases a product that distributes the internet and disables the filter through the Wholesaler or Manufacturer, only to subsequently give the product to their minor child, the parent shall not be subjected to criminal liability but could be held civilly liable by injured parties.

Section 7: Filter Tax To Offset the Secondary Harmful Effects Of Obscenity On Society

(a) The State of North Carolina will impose a $20 filter opt-out fee to help offset the secondary harmful and social effects that Manufacturers and Wholesalers of products that distribute the internet and that make internet content available have cultivated.

(b) As a matter of general equity regarding the tax on strip clubs and alcohol, the state of North Carolina shall charge a filter deactivation tax to offset the secondary harmful effects, social cost, and burden on law enforcement that exposure to obscenity through products that distribute the internet cultivates, normalizes, and encourages.

(c) In terms of fund allocation collected from the filter deactivation tax:

(1) some funds shall be earmarked to go to groups that fighting human trafficking and pornography and that provide relational counseling and rehabilitation within the state of North Carolina;

(2) some funds will be earmarked to go to the families of law enforcement officers who are injured or killed in the line of duty;

(3) some of these funds will be earmarked for scholarships for universities located within the state of North Carolina for outstanding character and honorable moral virtue to encourage the State's duty to uphold the community standards of decency.

(d) The Manufacturers and Wholesalers of products that distribute or make content on the internet accessible shall not charge a filter installation fee. However, Manufacturers and Wholesalers of products that distribute the internet can charge a filter deactivation fee as they see fit. If a purchaser of products that distribute or that make assessable content on the internet asks the Manufacturer and/or Wholesaler to install a filter, the Manufacturer and/or Wholesaler shall do so and withhold the mechanism to deactivate the filter. If the consumer subsequently decides they want to have the filter deactivated, a $20 filter tax shall be imposed by the State.

Section 8: Immunity From Criminal Liability

(a) If a Manufacturer or Wholesaler sells a their product that distribute the internet and that makes accessible content on the internet with preset filters that automatically makes an attempt to block obscenity as defined under § 14-190.13 et. seq. and in compliance with § 14-190.14, and withholds the mechanism to deactivate the filter, they shall be immune from criminal liability under these sections.

(b) There is no retroactive criminal liability for Manufacturers and Wholesalers that failed to sell products that distribute the internet prior the enactment of this bill.

Section 9: Duty To Maintain The Quality Of The Filters

(a) Products that distribute the internet are unique in that they do not fully leave the instrumentality and control of the Manufacturer and Wholesalers, elevating the duty of care owed to consumers under NC products liability statutes.

(b) Manufacturers and Wholesalers of products that distribute the internet and/or that make content on the internet accessible shall send out filter updates regularly with routine software bundles to ensure the quality and performance of the filters in blocking obscenity.

(c) Manufacturers and Wholesalers of products that distribute the Internet shall set up a reporting website and/or call center where consumers can report obscene content that has breached the filter.

(d) The Manufacturers and/or Wholesalers will determine within a reasonable amount of time if the reported content is obscene or not, as defined under § 14-190.13. If the material meets the definition of obscene as defined under § 14-190.13, then the Manufacturers and/or Wholesalers shall send out a filter update that incorporates the reported material behind the shield within a reasonable amount of time after the determination to ensure continued compliance with § 14-190.14.

(e) If the Manufacturer or Wholesaler is non-responsive to the reporting of obscene material that has breached the filter, then the complaining consumer or attorney general can bring a civil suit against the Manufacturer and Wholesaler in the court of competent jurisdiction.

(f) The injured consumer or attorney general can seek $500 for every piece of content that was reported but was not subsequently filtered by the Manufacturer and Wholesaler.

(g) The prevailing party to a civil action can seek attorneys fees under this section, which will ensure compliance and ward off frivolous lawsuits.

Section 10: Duty To Unfilter Content That Is Not Obscene

(a) If the filters accidently blocks content that is not obscene as defined under§ 14-190.13 and if the content creator reports this accidental filtering to the Manufacturer's and Wholesaler's reporting call center and/or reporting website, the Manufacturer and Wholesaler can unblock the material within a reasonable time in step with the first amendment rights of the content creator.

(b) The injured party can seek declaratory relief

(c) The prevailing party to a civil action can seek attorneys fees under this section, which will ensure compliance and ward off frivolous lawsuits.

Section 11: Duty To Filter Prostitution Hubs

(a) Prostitution is defined as § 14-190.13(4).

(b) Manufacturers and Wholesalers of products that distribute the Internet and/or that make content on the internet accessible shall include behind the filter any website that is a known prostitution hub.

(c) Websites that offer escort services and adult entertainment will be put behind the filter. This includes websites like Backpage.com and Craig's List that have adult services sections that are known for cultivating prostitution.

NOTES:

(1) Controlling Case Authority And Heighten Scrutiny: The legal authority that demonstrates that the bill will survive first amendment heightened scrutiny is found in these two cases: *(1) Ginsberg v. New York,* 390 U.S. 629, 639–40, 88 S.Ct. 1274, 20 L.Ed.2d 195 (1968) and (2) *Ashcroft v. American Civil Liberties Union,* 542 U.S. 656 (2004). In *Ashcroft v. American Civil Liberties Union,* 542 U.S. 656 (2004), the Supreme Court found conclusively that filters were the restrictive means in regulating obscenity on line. A Congressional inquiry group, commissioned by the *Ashcroft* Court, reached the same conclusion. The *Ashcroft* Court stated that Congress could pass a law that made the tech companies sell their products with filters. This bill accords with the express wishes of the Supreme Court in *Ashcroft.*

(2) Jurisdiction: This State has jurisdiction over the Manufacturers and Wholesalers located within this State. By passing this act, Manufacturers in other states will be pressured to comply with requirements set forth in this act so that Wholesalers located her can permissibly sell the products. For example, Apple Inc.'s manufacturing plant is not headquartered in this State. But if Apple Inc. wants to sell its products in this State, it better install filters and coordinated with manufacturers in the state about withholding the mechanism to deactivate the filter upon the satisfaction of certain existing conditions.

(2) Applying Display Statutes To Products That Distribute The Internet: Manufacturers and Wholesalers of products that distribute the internet are already subjected to the existing display statutes which are part of the obscenity code for all 50 states. The Constitutionality of these laws have been challenged over 179 times and has survived first amendment heightened scrutiny challenges. The controlling Supreme Court authority on the Constitutionality of these laws is found in *Ginsberg v. New York,* 390 U.S. 629, 639–40, 88 S.Ct. 1274, 20 L.Ed.2d 195 (1968). Just as a gas station in this State has to sell its girlie magazines behind a blinder rack, so too must products that distribute the internet install pre-set filters. The display statutes in all 50 states are as follows that put obscene content behind a digital blinder rack. All 50 states will pass COFA in legislation 2017. Sex trafficking is the modern day slavery issue and easily accessible pornography is fueling the demand. The display statutes in all 50 states are listed below:

Ariz. Rev. Stat. Ann. ss 133501 to 3507 (Supp. 1986); Colo. Rev. Stat. ss 187501,502 (Supp. 1984) (held unconstitutional); Fla. Stat. Ann. ss 847.0125, .013 (West 1994); Ga. Code Ann. ss 1612102,103 (1992) (held unconstitutional); Ind. Code Ann. s 354933 (West 1986); Me. Rev. Stat. Ann. tit. 17, ss 2911, 2912 (West 1983 & Supp. 1995); Miss. Code Ann. s 97527 (1994); Mo. Ann. Stat. ss 573.010, . 060 (Vernon 1995); Mont. Code Ann. s 458201 (1995); N.C. Gen. Stat. s 14190.14 (1986); N.D. Cent. Code s 12.127.103.1 (1995); 18 Pa. Cons. Stat. Ann. s 5903 (1983 & Supp. 1995); R.I. Gen. Laws s 113110 (Supp. 1986); S.C. Code Ann. ss 1615260,290,390 (Law. Coop. 1985); S.D. Codified Laws Ann. ss 222427,29.1 (1979 & Supp. 1995); Tenn. Code Ann. s 3917914 (1991); Utah Code Ann. ss 76101227,1228 (1995); Vt. Stat. Ann. tit. 13, s 2804b (Supp. 1995). Marion D. Hefner, "Roast Pigs" and MillerLight: Variable Obscenity in the Nineties, 1996 U. Ill. L. Rev. 843, 882 (1996). Ga Code Ann S 1612102(1) (Michie 1992). See also Ala Stat SS 13A12200.1(3), 13A12200.5 (1994) (probably prohibiting only display for sale); Ariz Rev Stat Ann S 133507 (West 1989) (prohibiting any display in any "place where minors are invited as part of the general public"); Fla Stat Ann S 847.0125 (West 1994) (prohibiting only display for sale); Ind Code Ann S 354933(2) (West 1995) (prohibiting any display "in an area to which minors have visual, auditory, or physical access"); Kan Stat Ann S 214301c(a)(1) (1988) (prohibiting display in commercial establishments only); La Rev Stat Ann S 14:91.11 (West 1995) (prohibiting any display "at a newsstand or any other commercial establishment which is open to persons under the age of seventeen years"); Minn Stat Ann S 617.293, subd 2(a) (West 1987 & Supp 1996) (prohibiting commercial display); NM Stat Ann S 30372.1 (1978 & Supp 1995) (prohibiting display only while offering for sale, "in a retail establishment open to the general public," and "in such a way that it is on open display to, or within the convenient reach of, minors who may frequent the retail establishment");; NC Gen Stat S 14190.14(a) (1993) (prohibiting display in commercial establishments only); Okla Stat Ann SS 1040.75, 1040.76 (West 1983 & Supp 1996) (prohibiting all display, "including but not limited to . . . commercial establishment(s)"); Tenn Code Ann S 3917914(a) (1991) (prohibiting

display for sale or rent); Tex Penal Code Ann S 43.24 (Vernon 1991) (prohibiting all display, whenever person is "reckless about whether a minor is present who will be offended or alarmed by the display"); 13 Vt Stat Ann SS 2801(8), 2804a (Equity 1971 & Supp 1995) (prohibiting display "for advertising purposes"). Eugene Volokh, Freedom of Speech in Cyberspace from the Listener's Perspective: Private Speech Restrictions, Libel, State Action, Harassment, and Sex, 1996 U. Chi. Legal F. 377, 436 (1996)

(3) Tobacco Vending Machines And Strict Liability: In *Greene v. Brown & Williamson Tobacco Corp.*, 72 F. Supp. 2d 882, 893 (W.D. Tenn. 1999), the Court established that cigarette vending machines owners can be held liable under strict liability for the harmful content found inside of their products. Cigarette vending machines owners Manufacturers and Wholesalers have a duty to keep minors from accessing the content within their product. The same legal reasoning applies to Manufacturers and Wholesalers of products that distribute the internet. Manufacturers and Wholesalers of products that distribute the internet amount to pornographic vending machines. In *Richardson v. Phillip Morris Inc.*, 950 F. Supp. 700 (D. Md. 1997), a tobacco case involving distributors, the Court held that a distributor of product may be held liable to the ultimate consumer under strict products liability if product was in defective condition at time that it left possession or control of seller, it was unreasonably dangerous to user or consumer, defect was cause of injuries, and product was expected to and did reach consumer without substantial change in its condition. Restatement (Second) of Torts § 402A. Under § 402A of the Restatement (Second) of Torts (1965), which has been applied by the courts, a distributor may be liable to the ultimate consumer if four elements are shown: "(1) the product was in a defective condition at the time that it left the possession or control of the seller, (2) that it was unreasonably dangerous to the user or consumer, (3) that the defect was a cause of the injuries, and (4) that the product was expected to and did reach the consumer without substantial change in its condition." *Phipps v. General Motors Corp.*, 278 Md. 337, 344, 363 A.2d 955, 958 (1976); see also *Owens–Illinois v. Zenobi*a, 325 Md. 420, 441, 601 A.2d 633, 643 (1992). The products that distribute and make accessible content on the internet that are sold without preset filters to minors and non-consenting adults are defective by definition and dangerous.

(5) Removing The Porn Ingredient: The 1914 Harrison Narcotics Tax Act required Coca-Cola to remove the cocaine ingredient from its products. Cocain like pornography impacts the same area of the brain. http://yourbrainonporn.com/cambridgeuniversitybrainscansfind pornaddiction. This bill requires Manufacturers and Wholesalers of products that distribute the internet and make the content on the internet accessible remove the pornography ingredient from their products as the initial default setting. Unlike with cocaine and Coca Cola, however, the pornography ingredient can be put back into the product if the purchaser is an adult, who verifies their age and assumes the risk of exposure to obscenity.

(6) Free Speech Generally: "The right of free speech is not absolute at all times and under all circumstances. There are certain well defined and narrowly limited classes of speech, the prevention and punishment of which has never been thought to raise any Constitutional problem." *Chaplinsky v. State of New Hampshire*,315 U.S. 568, 57172, 62 S.Ct. 766, 767, 86 L.Ed. 1031 (1942). The First Amendment provides in pertinent part that "Congress shall make no law ... abridging the freedom of speech or of the press," and is applicable to the States through the Fourteenth Amendment. See *Cantwell v. Connecticut,*310 U.S. 296, 60 S.Ct. 900, 84 L.Ed. 1213 (1940). The portion of Article I, § 19 that is pertinent to this appeal provides that "[t]he free communication of thoughts and opinions is one of the invaluable rights of man and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty." The right to only be exposed to clear speech is itself a fundamental free speech right.

(7). Obscene Speech Generally: Obscene materials are not protected by the First Amendment to the Constitution of the United States or by Article I, § 19 of the Tennessee Constitution. See, *Miller v. California,* 413 U.S. 15, 93 S.Ct. 2607, 37 L.Ed.2d 419 (1973); *State v. Marshall*, 859 S.W.2d 289 (Tenn.1993. "It is a violation of obscenity laws to distribute content that violates the community standard." *Miller. California*, 413 U.S 15 (1973). Obscenity is not within the area of protected speech or press." *Court v. State,* 51 Wis. 2d 683, 188 N.W.2d 4 (1971) vacated, 413 U.S. 911, 93 S. Ct. 3032, 37 L. Ed. 2d 1023 (1973) and abrogated by *State v. Petrone*, 161 Wis. 2d 530, 468 N.W.2d 676 (1991); *State v. Weidner,* 2000 WI 52, 235 Wis. 2d 306, 611 N.W.2d 684;;;; *Ebert v. Maryland State Bd. of Censors*, 19 Md. App. 300, 313 A.2d 536 (1973). Obscenity is not protected expression and may be suppressed without a showing of the circumstances which lie behind the phrase "clear and present danger" in its application to protected speech. *Roth v. United States*, 354 U.S. 476, 485, 77 S.Ct. 1304, 1309, 1 L.Ed.2d 1498. *United States v. Gendron,* S24:08CR244RWS(FRB), 2009 WL 5909127 (E.D. Mo. Sept. 16, 2009) report and recommendation adopted, S2 4:08CR 244 RWS, 2010 WL 682315 (E.D. Mo. Feb. 23, 2010); *Chapin v. Town of Southampton,* 457 F. Supp. 1170 (E.D.N.Y. 1978); *Sovereign News Co. v. Falke*, 448 F. Supp. 306 (N.D. Ohio 1977); *City of Portland v.Jacobsky,* 496A.2d646(Me.1985).

(8) The United States Supreme Court has long ago found the secondary harmful effects of pornography are undeniable: The Supreme Court and other state and federal courts have recognized the harmful secondary effects of "hardcore porn shops" and other "sexually oriented businesses" that specialize in pornography and commercial nudity and upheld the right of cities and counties to enact zoning and licensing ordinances based on reports and studies of their destructive impact. There were at least forty such studies and reports of municipalities and state agencies that have documented such crime impacts and urban blight, including those reports from such diverse communities as Los Angeles, Cleveland, New York City, Phoenix, Minneapolis, Indianapolis, Seattle, Oklahoma City, Houston, Dallas, El Paso, Las Vegas,

.Alliance, Ohio, Newport News, Virginia, Manatee County, Florida, Adams County, Colorado, and New Hanover County, North Carolina. As the Supreme Court said in the *Paris Adult Theatre* case in 1973, "The sum of experience...affords an ample basis for legislatures to conclude that a sensitive, key relationship of human existence, central to family life, community welfare, and the development of human personality, can be debased and distorted by crass commercial exploitation of sex. The States [and Congress] have the power to make a morally neutral judgment that public exhibition of obscene material, or commerce in such material, has a tendency to injure the community as a whole, to endanger the public safety, or in Chief Justice Warren's words, to jeopardize, States' "right. . .to maintain a decent society." *Paris Adult Theatre Iv. Slaton,* 413 US 49, at 63,69 (1973). As noted by the Supreme Court in *Roth v. United States,* 354 U.S. 476, at 485 n. 15 (1957), and *New York v. Ferber*, 458 U.S. 747, at 754 (1982), there is an international Treaty that can be used by U.S. and other Nations to cooperate in identifying and prosecuting obscenity offenses. The original Treaty is called "Agreement for the Suppression of the Circulation of Obscene Publications", signed at Paris, May 4, 1910 In the U.S, it is reported at 37 Stat. Pt. 2, p. 1511, Treaties in Force 209 (U.S. Dept. of State), Treaty Series 559. The 1949 Protocol transferred the recording and tracking functions to the United Nations. There are now over 130 signatory countries.

(9) Defining Pornography: Supreme Court Justice Stewart famously stated, "I shall not today attempt further to define [obscenity]; and perhaps I could never succeed in intelligibly doing so. But I know it when I see it." *Jacobellis v. Ohio*, 378 U.S. 184, 197 (1964). The Supreme Court defined what constitutes obscenity extensively in *Miller. California*, 413 U.S 15 (1973). This definitions of obscenity issued by the Supreme Court merely reinforce the state's existing statutory definition of obscenity under the obscenity code. Manufacturers and Wholesalers of products that distribute the internet and make content accessible have no excuse.

(10) Consumer Fraud and The Lanham Act: Steve Jobs announced to the media that the Tech Enterprise had a "morality responsibility" to keep pornography off of their products. http://www.zdnet.com/article/jobs-apple-has-moral-responsibility-to-block-iphone-porn-jabs-android-again/ By making Manufacturers and Wholesalers of products that distribute the internet sell their products with preset filters, allows the Tech Companies to comply with their "moral responsibility" and to finallly live up to their advertised message that their products are "family friendly."

(11) The Tech Enterprise's Strongest Argument against COFA: The Tech Enterprise's strongest argument against COFA comes under Section 230 of the Communications Decency Act. Section 230 of the Communications Decency Act applies to protect interactive websites and computer software programs against the harmful acts of third parties. Section 230 does not extend to protect physical products. Nor does the law negate the liability of intermediaries who

enable violations of the Federal Copyright Act and the state Obscenity codes which are tied into the Federal Obscenity statutes 18 U.S. Code §§ 1460-1470

(12) First obscenity case the Court stated: "The destruction of morality renders the power of government invalid, for government is no more than public order. It weakens the hands by which society is kept together. The corruption of the public mind, in general, and debauching the manners of youth, in particular, by lewd and obscene pictures...must necessarily be attended with the most injurious consequences." Pennsylvania Supreme Court Presiding Justice Yeats, in the first Obscenity case in the United States, Commonwealth v. Sharpless (1815). The Federal Congress has tried to regulate pornography on the internet twice. The first attempt came in the form of the Communications Decency Act (CDA) and the second came in the form of the Child Online Privacy Protection Act (COPPA). Both bills were Constitutionally invalid as the Supreme Court found in in *Reno v. ACLU,* 521 U.S. 844, 117 S.Ct. 2329, 138 L.Ed.2d 874 (1997) and *Ashcroft v. American Civil Liberties Union,* 542 U.S. 656 (2004). The problems with the CDA and COPPA was that they did not regulate the right party. The Tech Enterprise is what must be regulated. The Child Online Filter Act (COFA) will survive first Amendment heightened scrutiny challenge for being for being the least restrictive means.

TYPES OF COALITION MEMBERS WHO ARE AVAILABLE FOR A HEARING

John Gunter Jr. From Clean Services Foundation, Clay Olsen Fight The New Drug, Lauren Dixon and Tiffany Leaper from Girls Against Pornography, Glendene Grant (Mothers Against Trafficking Humans); M.A. Denise Quirk; LMFT Stacey Thacker; MFT Roberta Vande Voort, LCSW Max Ward; LCSW, CSAT Dan Gray the Founder of Life Star Network; William Berry, founder of Battle Plan Ministries; John Harmer, former Lt. Governor of the State of California; Ralph Yarro, Think Atomic; Laura Bunker, The President of United Families International; Sula Skiles, Survivor of Sex Trafficking; Nita Belles, Managing Director of In Our Backyard; Dr. Leigh; Sarah Zalonis, survivor of Human trafficking; Kevin Yates, LT. Colonel United States Air Force; Blair Corbett, Director of Ark of Hope Children's Mission; Hillary Stines, mother and housewife; Tyler Gallacher, Ever Accountable; Bent Bishop, Founder of Net Nanny; Dan Kleinman, Safelibraries; Gary Williams, CEO of Hotel Management Company (Hilton and Holiday Inn), Former Judge Advocate General and Assistant U.S. Attorney Chris Sevier, Claudine Gallacher, founder of Pornproofkids.org; Dawn Hawkins National Center On Sexual Exploitation, Gail Dines, Dr. Mary Ann Laden, Dr. Judith Reisman, and Dr. Donald Hilton,

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SOME EXAMPLES OF PUBLIC TALKING POINTS FOR THE SPONSOR IF CONFRONTED BY THE MEDIA:

1. CHILDREN: This matter is about protecting children. Why is it that a child cannot see an R-rated movie but they can walk around with an X-rated movie theater in the form of a cell phone? Why is there double standard when it comes to the Technology Enterprise? Why aren't they regulated like bricks and mortar sexual oriented businesses (S.O.B.s). As a lawmaker, I have a duty to make the Tech Enterprise protect children and their developing minds from harm.

2. FREEDOM OF SPEECH: This matter is not about free speech, it is about allowing consumers the right to regulate their own "mental health." The real freedom of speech interest comes from giving consumers the upfront liberty to choose whether or not they are subjected to unwanted exposure to pornography instead of allowing the Tech Enterprise to patronizingly make that choice for them, in the name of "freedom" when it is not.

3. PROTECTING AGAINST HARM: By making the manufacturers and retailers of products that distribute the internet sell their products with pre-set filters makes the objectively "right choice," the "easy choice." The evidence is overwhelming that pornography is connected to the demand side of human trafficking, violence towards women, divorce, and child exploitation. The United States Supreme Court has long since recognized the secondary harmful effects of pornography. Pornography never has been protected speech and Congress can regulate the time place and manner of it. Filter legislation will offset the secondary harmful effects and its backed by the Constitutional law.

3. NOT LEGISLATING MORALITY: I am not a legislature of morality, and this legislation is not designed to be a prohibition of pornography. I am no prohibitionist. By making the Tech Companies sell their products with pre-set filters, it is not as if pornography is gone forever. It is just behind a barrier shield. If you are over 18, you can have the filter removed and have at it, if you want to. I am not against technology, I want to see the Tech Companies scale back the dark side of technology to protect children and families.

4. CONTROLLING AUTHORITY: The Supreme Court in *Ashcroft v. Am. Civil Liberties Union* found conclusively that Congress could pass filter legislation to regulate the handful of readily identifiable Tech Companies that make and sell products that distribute the internet. The Supreme Court has already found that filters are the least restrictive means to regulating pornographic speech. Filter legislation will pass first amendment heightened scrutiny under Ginsberg v. New York, 390 U.S. 629, 639--40, 88 S.Ct. 1274, 20 L.Ed.2d 195 (1968) for being the least restrictive means in a manner that parallels the existing display laws. It is not enough to say "porn is bad." There has to be a solution that mitigates its harmfulness. COFA is the solution that accords with the Constitution and first amendment.

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Ashcroft v. Am. Civil Liberties Union, 535 U.S. 564, 122 S. Ct. 1700, 152 L. Ed. 2d 771 (2002)

5. LEGAL ANALOGY: Under the existing obscenity code, 711 stores are required to sell their girlie magazines behind a blinder rack, which the retailer can unlock after a consumer verifies their age and wants access. Filter legislation is merely a digital version of that blinder rack. Products that distribute the internet amount to handheld retail stores. All 50 states have these display statutes already on the books, and these statutes have been upheld as being Constitutional in hundreds of cases. The most famous case was before the United States Supreme Court in Ginsberg v. New York.

(Ginsberg v. New York, 390 U.S. 629, 639--40, 88 S.Ct. 1274, 20 L.Ed.2d 195 (1968))

6. CAR ANALOGY: Just like a car manufacturer is required to sell their products with custom made seat belts, ISPs, cell phone, computer, and laptop makers must be required to sell their products with filters that are in place to ward off foreseeable harm that is created by exposure to pornography. Without cars, there are no car wrecks, and without products that distribute the pornography on the internet, there are not all of the secondary harmful effects of pornography that are damaging the public health.

7. COCA COLA ANALOGY: Coca Cola used to sell their products with cocaine until Congress passed the Harris Act which made them remove the ingredient for being too harmful. Filter legislation makes manufacturers and wholesalers remove the porn ingredient from their product, but that ingredient can be added back in if the purchaser is over 18 and shows proof of ID.

8. BURDEN SHIFTING: This is a matter of burden shifting matter where those adults who intentionally want to access pornography have to undertake the extra steps to gain access. The burden should not be on those who want to avoid pornography to take extra steps to do so. Just like it is lawful to zone strip clubs to the hard to reach parts of towns, it is Constitutionally to make pornography a bit harder to access through products that otherwise make it unavoidable. This bill will help increase intimacy and healthy forms of sex.

9. GOT IT BACKWARDS: Currently, in some states, if a consumer asks its ISP to add a filter, the ISP must do so, but the ISP is allowed to charge a filter installation fee. I think that this is backwards. Instead of authorizing the ISP to charge a filter installation fee, there should be a filter deactivation fee that is subject to a sin tax as a matter of fairness to cigarette retailers and strip clubs, which are under an existing sin tax obligation. The sin tax proceeds can go to offset the public health crisis that pornography has been cultivating. Why would we reward obscenity speech and not clean speech when obscene speech has never been protected in this Country.

10. OTHER STATES: Other state legislatures are lining up to present filter legislation as well. It is time that the Tech Enterprise be regulated. Allowing the Tech Industry to distribute all content without any restriction has made up less free. Play Boy is putting clothes back on its models because it has learn - like the music business - that it is impossible to compete with free. Our State has the opportunity to be one of the first states to pass filter legislation and lead the Country in protecting children, decency, and the community standards.

PRESS:
https://www.google.com/#q=and+news+and+utah+and+John+Gunter+Jr+and+COFA

http://www.sltrib.com/news/3915832-155/story.html

http://www.washingtontimes.com/news/2016/may/26/utah-lawsuit-challenges-porn-filter-fees/

http://upr.org/post/lawsuit-challenges-utah-pornography-declaration

https://www.youtube.com/watch?v=KoKmSH9Hg3A

http://fox13now.com/2016/05/17/utah-lawmaker-plans-porn-filter-legislation-for-cell-phones-libraries/

ıment and Sentencing. -

A person is guilty of a Class B1 felony if either of the following occurs:

a. The person commits incest against a child under the age of 13 and the person is at least 12 years old a years older than the child when the incest occurred.

b. The person commits incest against a child who is 13, 14, or 15 years old and the person is at least six ye child when the incest occurred.

A person is guilty of a Class C felony if the person commits incest against a child who is 13, 14, or 15 and the pe four but less than six years older than the child when the incest occurred.

In all other cases of incest, the parties are guilty of a Class F felony.

ıbility for Children Under 16. - No child under the age of 16 is liable under this section if the other person is at leas ːcurred. (1879, c. 16, s. 1; Code, s. 1060; Rev., s. 3351; 1911, c. 16; C.S., s. 4337; 1965, c. 132; 1979, c. 760, s. 5; 1 c. 63, s. 1; c. 179, s. 14; 1993, c. 539, s. 1192; 1994, Ex. Sess., c. 24, s. 14(c); 2002-119, s. 1.)

ːd by Session Laws 2002-119, s. 2, effective December 1, 2002.

led by Session Laws 1975, c. 402.

h 14-182. Repealed by Session Laws 1973, c. 108, s. 4.

y.

being married, shall marry any other person during the life of the former husband or wife, every such offender, ; or abetting such offender, shall be punished as a Class I felon. Any such offense may be dealt with, tried, determi ːre the offender shall be apprehended, or be in custody, as if the offense had been actually committed in that coun all contract a marriage with any other person outside of this State, which marriage would be punishable as bigan and shall thereafter cohabit with such person in this State, he shall be guilty of a felony and shall be punished as in ł in this section shall extend to any person marrying a second time, whose husband or wife shall have been contin e space of seven years then last past, and shall not have been known by such person to have been living within tha time of such second marriage shall have been lawfully divorced from the bond of the first marriage; nor to any per: ːe been declared void by the sentence of any court of competent jurisdiction. (See 9 Geo. IV, c. 31, s. 22; 1790, c. 3 . 9; R.C., c. 34, s. 15; Code, s. 988; Rev., s. 3361; 1913, c. 26; C.S., s. 4342; 1979, c. 760, s. 5; 1979, 2nd Sess., c. s. 14; 1993, c. 539, s. 1193; 1994, Ex. Sess., c. 24, s. 14(c).)

ation and adultery.

d woman, not being married to each other, shall lewdly and lasciviously associate, bed and cohabit together, they s ınor: Provided, that the admissions or confessions of one shall not be received in evidence against the other. (1 Code, s. 1041; Rev., s. 3350; C.S., s. 4343; 1969, c. 1224, s. 9; 1993, c. 539, s. 119; 1994, Ex. Sess., c. 24, s. 14(c).)

led by Session Laws 1975, c. 402.

ite sexes occupying same bedroom at hotel for immoral purposes; falsely registering as husband and wife.

woman found occupying the same bedroom in any hotel, public inn or boardinghouse for any immoral purpose ːistering as, or otherwise representing themselves to be, husband and wife in any hotel, public inn or boardinghouse misdemeanor. (1917, c. 158, s. 2; C.S., s. 4345; 1969, c. 1224, s. 3; 1993, c. 539, s. 120; 1994, Ex. Sess., c. 24, s. 1

led by Session Laws 1975, c. 402.

n evidence relative to keeping disorderly houses admissible; keepers of such houses defined; punishment.

ɔrosecution in any court for keeping a disorderly house or bawdy house, or permitting a house to be used as a baw to make it disorderly, or a common nuisance, evidence of the general reputation or character of the house shall l ːidence of the lewd, dissolute and boisterous conversation of the inmates and frequenters, while in and around suc ıce of the bad character of the inmates and frequenters, and of the disorderly character of the house. The manager ːndency or government of a disorderly house or bawdy house is the "keeper" thereof, and one who employs anoth

The material lacks serious literary, artistic, political, or scientific value; and

The material as used is not protected or privileged under the Constitution of the United States or the Cons Carolina.

:d in this Article, "sexual conduct" means:

Vaginal, anal, or oral intercourse, whether actual or simulated, normal or perverted; or

Masturbation, excretory functions, or lewd exhibition of uncovered genitals; or

An act or condition that depicts torture, physical restraint by being fettered or bound, or flagellation of or by a person clad in undergarments or in revealing or bizarre costume.

enity shall be judged with reference to ordinary adults except that it shall be judged with reference to children o ıces if it appears from the character of the material or the circumstances of its dissemination to be especially desigr r audiences.

ıll be unlawful for any person, firm or corporation to knowingly and intentionally create, buy, procure or possess ınd intent of disseminating it unlawfully.

l be unlawful for a person, firm or corporation to advertise or otherwise promote the sale of material represented o rporation as obscene.

ion of this section is a Class I felony.

ne material disseminated, procured, or promoted in violation of this section is contraband.

ıthing in this section shall be deemed to preempt local government regulation of the location or operation of extent consistent with the constitutional protection afforded free speech. (1971, c. 405, s. 1; 1973, c. 1434, s. 1; 1 94; 1994, Ex. Sess., c. 24, s. 14(c); 1998-46, s. 2.)

aled by Session Laws 1985, c. 703, s. 2.

aled by Session Laws 1985, c. 703, s. 3.

cing acceptance of obscene articles or publications.

ːm or corporation shall, as a condition to any sale, allocation, consignment or delivery for resale of any paper, ication require that the purchaser or consignee receive for resale any other article, book, or publication which is o 14-190.1; nor shall any person, firm or corporation deny or threaten to deny any franchise or impose or threat or otherwise, by reason of the failure or refusal of any person to accept such articles, books, or publications, or olation of this section is a Class 1 misdemeanor. (1971, c. 405, s. 1; 1985, c. 703, s. 4; 1993, c. 539, s. 122; 1994, I

aration of obscene photographs, slides and motion pictures.

who knowingly:

Photographs himself or any other person, for purposes of preparing an obscene film, photograph, negative, slide for the purpose of dissemination; or

Models, poses, acts, or otherwise assists in the preparation of any obscene film, photograph, negative, slide or r the purpose of dissemination,

ı Class 1 misdemeanor. (1971, c. 405, s. 1; 1985, c. 703, s. 5; 1993, c. 539, s. 123; 1994, Ex. Sess., c. 24, s. 14(c).)

closure of private images.

tions. - The following definitions apply in this section:

Disclose. - Transfer, publish, distribute, or reproduce.

Image. - A photograph, film, videotape, recording, digital, or other reproduction.

Intimate parts. - Any of the following naked human parts: (i) male or female genitals, (ii) male or female pubic female anus, or (iv) the nipple of a female over the age of 12.

Personal relationship. - As defined in G.S. 50B-1(b).

Reasonable expectation of privacy. - When a depicted person has consented to the disclosure of an image withi personal relationship and the depicted person reasonably believes that the disclosure will not go beyond that relati

Sexual conduct. - Includes any of the following:

a. Vaginal, anal, or oral intercourse, whether actual or simulated, normal or perverted.

b. Masturbation, excretory functions, or lewd exhibition of uncovered genitals.

c. An act or condition that depicts torture, physical restraint by being fettered or bound, or flagellation of or

Action. In addition to any other remedies at law or in equity, including an order by the court to destroy any ir
ection, any person whose image is disclosed, or used, as described in subsection (b) of this section, has a civil cause
iscloses or uses the image and is entitled to recover from the other person any of the following:
Actual damages, but not less than liquidated damages, to be computed at the rate of one thousand dollars ($1,000
day of the violation or in the amount of ten thousand dollars ($10,000), whichever is higher.
Punitive damages.
A reasonable attorneys' fee and other litigation costs reasonably incurred.
f action may be brought no more than one year after the initial discovery of the disclosure, but in no event n
than seven years from the most recent disclosure of the private image. (2015-250, s. 1.)

loying or permitting minor to assist in offense under Article.
18 years of age or older who intentionally, in any manner, hires, employs, uses or permits any minor under the age
any act or thing constituting an offense under this Article and involving any material, act or thing he knows or r
ie within the meaning of G.S. 14-190.1, shall be guilty of a Class I felony. (1971, c. 405, s. 1; 1983, c. 916, s. 2; 19

:mination to minors under the age of 16 years.
18 years of age or older who knowingly disseminates to any minor under the age of 16 years any material wl
l know to be obscene within the meaning of G.S. 14-190.1 shall be guilty of a Class I felony. (1971, c. 405, s. 1; 1
)

:mination to minors under the age of 13 years.
18 years of age or older who knowingly disseminates to any minor under the age of 13 years any material wl
know to be obscene within the meaning of G.S. 14-190.1 shall be punished as a Class I felon. (1971, c. 405, s. 1;
1983, c. 175, ss. 7, 10, c. 720, ss. 4, 10; 1985, c. 703, s. 8; 1993, c. 539, s. 1195; 1994, Ex. Sess., c. 24, s. 14(c).)

:ent exposure.
s the conduct is punishable under subsection (a1) of this section, any person who shall willfully expose the private
lic place and in the presence of any other person or persons, except for those places designated for a public purpos
cidental to a permitted activity, or aids or abets in any such act, or who procures another to perform such act; or ai
lessee, director, promoter or agent, or in any other capacity knowingly hires, leases or permits the land, buildin
, lessee or tenant, or over which he has control, to be used for purposes of any such act, shall be guilty of a Class 2
ss the conduct is prohibited by another law providing greater punishment, any person at least 18 years of age w
e parts of his or her person in any public place in the presence of any other person less than 16 years of age f
ying sexual desire shall be guilty of a Class H felony. An offense committed under this subsection shall not be c
fense under G.S. 14-202.1.
s the conduct is prohibited by another law providing greater punishment, any person who shall willfully expose th
in the presence of anyone other than a consenting adult on the private premises of another or so near thereto as to b
or the purpose of arousing or gratifying sexual desire is guilty of a Class 2 misdemeanor.
ss the conduct is punishable by another law providing greater punishment, any person at least 18 years of age w
parts of his or her person in a private residence of which they are not a resident and in the presence of any other p
is a resident of that private residence shall be guilty of a Class 2 misdemeanor.
s the conduct is prohibited by another law providing greater punishment, any person located in a private place w
parts of his or her person with the knowing intent to be seen by a person in a public place shall be guilty of a Class
ithstanding any other provision of law, a woman may breast feed in any public or private location where she is oth
of whether the nipple of the mother's breast is uncovered during or incidental to the breast feeding.
ithstanding any other provision of law, a local government may regulate the location and operation of sexually ori
tion may restrict or prohibit nude, seminude, or topless dancing to the extent consistent with the constitutional pr
1, c. 591, s. 1; 1993, c. 301, s. 1; c. 539, s. 124; 1994, Ex. Sess., c. 24, s. 14(c); 1998-46, s. 3; 2005-226, s. 1; 20

)ugh 14-190.12. Repealed by Session Laws 1985, c. 703, s. 9.

initions for certain offenses concerning minors.
definitions apply to G.S. 14-190.14, displaying material harmful to minors; G.S. 14-190.15, disseminating or exl

g. The lascivious exhibition of the genitals or pubic area of any person.

Sexually Explicit Nudity. - The showing of:

a. Uncovered, or less than opaquely covered, human genitals, pubic area, or buttocks, or the nipple or any po of the human female breast, except as provided in G.S. 14-190.9(b); or

b. Covered human male genitals in a discernibly turgid state. (1985, c. 703, s. 9; 1989 (Reg. Sess., 1990), c. c. 301, s. 2; 2008-218, s. 1; 2013-368, s. 18.)

olaying material harmful to minors.

ıse. - A person commits the offense of displaying material that is harmful to minors if, having custody, control, oı lishment and knowing the character or content of the material, he displays material that is harmful to minors at that 'iew by minors as part of the invited general public. Material is not considered displayed under this section if the ıcks" that cover the lower two thirds of the material, is wrapped, is placed behind the counter, or is otherwise cov at is harmful to minors is not open to the view of minors.

ıment. - Violation of this section is a Class 2 misdemeanor. Each day's violation of this section is a separate offens 125; 1994, Ex. Sess., c. 24, s. 14(c).)

seminating harmful material to minors; exhibiting harmful performances to minors.

seminating Harmful Material. - A person commits the offense of disseminating harmful material to minors if, knowing the character or content of the material, he:

Sells, furnishes, presents, or distributes to a minor material that is harmful to minors; or

Allows a minor to review or peruse material that is harmful to minors.

ibiting Harmful Performance. - A person commits the offense of exhibiting a harmful performance to a minor if knowing the character or content of the performance, he allows a minor to view a live performance that is harmful

ses. - Except as provided in subdivision (3), a mistake of age is not a defense to a prosecution under this section. I cution under this section that:

The defendant was a parent or legal guardian of the minor.

The defendant was a school, church, museum, public library, governmental agency, medical clinic, or hospit legitimate function; or an employee or agent of such an organization acting in that capacity and carrying out a legi employment.

Before disseminating or exhibiting the harmful material or performance, the defendant requested and received student identification card, or other official governmental or educational identification card or paper indicating whom the material or performance was disseminated or exhibited was at least 18 years old, and the defendant re the minor was at least 18 years old.

The dissemination was made with the prior consent of a parent or guardian of the recipient.

ment. - Violation of this section is a Class 1 misdemeanor. (1985, c. 703, s. 9; 1993, c. 539, s. 126; 1994, Ex. Sess.,

st degree sexual exploitation of a minor.

se. - A person commits the offense of first degree sexual exploitation of a minor if, knowing the character or conte e:

Uses, employs, induces, coerces, encourages, or facilitates a minor to engage in or assist others to engage in se live performance or for the purpose of producing material that contains a visual representation depicting this activi

Permits a minor under his custody or control to engage in sexual activity for a live performance or for the purp material that contains a visual representation depicting this activity; or

Transports or finances the transportation of a minor through or across this State with the intent that the minor activity for a live performance or for the purpose of producing material that contains a visual representation depi or

Records, photographs, films, develops, or duplicates for sale or pecuniary gain material that contains a visı depicting a minor engaged in sexual activity.

ence. - In a prosecution under this section, the trier of fact may infer that a participant in sexual activity whom m epresentations, or otherwise represents or depicts as a minor is a minor.

ce of Age. - Mistake of age is not a defense to a prosecution under this section.

ment and Sentencing. - Violation of this section is a Class C felony. (1985, c. 703, s. 9; 1993, c. 539, s. 1196; 199 507, s. 19.5(o); 2008-117, s. 3; 2008-218, s. 2.)

rrants for obscenity offenses.

ant or criminal process for a violation of G.S. 14-190.1 through 14-190.5 may be issued only upon the reques .1.)

led by Session Laws 1971, c. 591, s. 4.

h 14-193. Repealed by Session Laws 1971, c. 405, s. 4.

led by Session Laws 1971, c. 591, s. 4.

led by Session Laws 1993 (Reg. Sess., 1994), c. 767, s. 30(11).

profane, indecent or threatening language to any person over telephone; annoying or harassing by repeate g false statements over telephone.

l be unlawful for any person:

To use in telephonic communications any words or language of a profane, vulgar, lewd, lascivious or indecent ch connotation;

To use in telephonic communications any words or language threatening to inflict bodily harm to any person c child, sibling, spouse, or dependent or physical injury to the property of any person, or for the purpose of extortin things of value from any person;

To telephone another repeatedly, whether or not conversation ensues, for the purpose of abusing, annoying, threa harassing or embarrassing any person at the called number;

To make a telephone call and fail to hang up or disengage the connection with the intent to disrupt the service of a

To telephone another and to knowingly make any false statement concerning death, injury, illness, disfigurement, or criminal conduct of the person telephoned or of any member of his family or household with the intent to abus terrify, harass, or embarrass;

To knowingly permit any telephone under his control to be used for any purpose prohibited by this section.

f the above offenses may be deemed to have been committed at either the place at which the telephone call or call the telephone call or calls were received. For purposes of this section, the term "telephonic communicatio nade or received by way of a telephone answering machine or recorder, telefacsimile machine, or computer modem ne violating the provisions of this section shall be guilty of a Class 2 misdemeanor. (1913, c. 35; 1915, c. 41; C.S., 305; 1993, c. 539, s. 128; 1994, Ex. Sess., c. 24, s. 14(c); 1999-262, s. 1; 2000-125, s. 2.)

ıgh 14-196.2. Repealed by Session Laws 1967, c. 833, s. 3.

erstalking.

llowing definitions apply in this section:

Electronic communication. - Any transfer of signs, signals, writing, images, sounds, data, or intelligence of any n in whole or in part by a wire, radio, computer, electromagnetic, photoelectric, or photo-optical system.

Electronic mail. - The transmission of information or communication by the use of the Internet, a computer, a fac pager, a cellular telephone, a video recorder, or other electronic means sent to a person identified by a unique a number and received by that person.

Electronic tracking device. - An electronic or mechanical device that permits a person to remotely determine or and movement of another person.

Fleet vehicle. - Any of the following: (i) one or more motor vehicles owned by a single entity and operated by em of the entity for business or government purposes, (ii) motor vehicles held for lease or rental to the general pub vehicles held for sale, or used as demonstrators, test vehicles, or loaner vehicles, by motor vehicle dealers.

ılawful for a person to:

Use in electronic mail or electronic communication any words or language threatening to inflict bodily harm tc that person's child, sibling, spouse, or dependent, or physical injury to the property of any person, or for the pur money or other things of value from any person.

Electronically mail or electronically communicate to another repeatedly, whether or not conversation ensues, f

retail lease agreement, including the installation, placement, or use of an electronic tracking device to lo
disable the motor vehicle, with the express written consent of the purchaser, borrower, or lessee of the mot

f. The installation, placement, or use of an electronic tracking device authorized by an order of a State or fed

g. A motor vehicle manufacturer, its subsidiary, or its affiliate that installs or uses an electronic tracking devi with providing a vehicle subscription telematics service, provided that the customer subscribes or consents

h. A parent or legal guardian of a minor when the electronic tracking device is installed, placed, or used to tra that minor unless the parent or legal guardian is subject to a domestic violence protective order under C General Statutes or any court order that orders the parent or legal guardian not to assault, threaten, harass, that minor or that minor's parent, legal guardian, custodian, or caretaker as defined in G.S. 7B-101.

i. An employer, when providing a communication device to an employee or contractor for use in connecti work for the employer.

j. A business, if the tracking is incident to the provision of a product or service requested by the person, ex sub-subdivision k. of this subdivision.

k. A private detective or private investigator licensed under Chapter 74C of the General Statutes, provided th is pursuant to authority under G.S. 74C-3(a)(8), (ii) the tracking is not otherwise contrary to law, and (iii) tracked is not under the protection of a domestic violence protective order under Chapter 50B of the Gene other court order that protects against assault, threat, harassment, following, or contact.

offense under this section committed by the use of electronic mail or electronic communication may be deen the electronic mail or electronic communication was originally sent, originally received in this State, or first view

rson violating the provisions of this section shall be guilty of a Class 2 misdemeanor.

section does not apply to any peaceable, nonviolent, or nonthreatening activity intended to express political vie n to others. This section shall not be construed to impair any constitutionally protected activity, including sp 125, s. 1; 2000-140, s. 91; 2015-282, s. 1.)

d by Session Laws 2015-286, s. 1.1(1), effective October 22, 2015.

led by Session Laws 1975, c. 402.

icting way to places of public worship.

shall maliciously stop up or obstruct the way leading to any place of public worship, or to any spring or well comm shall be guilty of a Class 2 misdemeanor. (1785, c. 241, P.R.; R.C., c. 97, s. 5; Code, s. 3669; Rev., s. 3776; C.S., 4, s. 1; 1993, c. 539, s. 130; 1994, Ex. Sess., c. 24, s. 14(c).)

h 14-201: Repealed by Session Laws 1994, Ex. Sess., c. 14, s. 72(9), (10).

y peeping into room occupied by another person.

erson who shall peep secretly into any room occupied by another person shall be guilty of a Class 1 misdemeanor.

s covered by another provision of law providing greater punishment, any person who secretly or surreptitiously pe ing being worn by another person, through the use of a mirror or other device, for the purpose of viewing th orn by, that other person without their consent shall be guilty of a Class 1 misdemeanor.

irposes of this section:

The term "photographic image" means any photograph or photographic reproduction, still or moving, or any picture, or live television transmission, or any digital image of any individual.

The term "room" shall include, but is not limited to, a bedroom, a rest room, a bathroom, a shower, and a dressing

s covered by another provision of law providing greater punishment, any person who, while in possession of any a photographic image, shall secretly peep into any room shall be guilty of a Class A1 misdemeanor.

covered by another provision of law providing greater punishment, any person who, while secretly peeping into ar photographic image of another person in that room for the purpose of arousing or gratifying the sexual desire of ar felony.

person who secretly or surreptitiously uses any device to create a photographic image of another person undernea orn by that other person for the purpose of viewing the body of, or the undergarments worn by, that other per uilty of a Class I felony.

erson who, for the purpose of arousing or gratifying the sexual desire of any person, secretly or surreptitiously us

Department of Public Safety, or of a local confinement facility for security purposes or during investigation of al
by a person in the custody of the Division or the local confinement facility.
ection does not affect the legal activities of those who are licensed pursuant to Chapter 74C, Private Protective Se
ms, of the General Statutes, who are legally engaged in the discharge of their official duties within their respective
ging in activities for an improper purpose as described in this section. (1923, c. 78; C.S., s. 4356(a); 1957, c. 33
ss., c. 24, s. 14(c); 2003-303, s. 1; 2004-109, s. 7; 2011-145, s. 19.1(h); 2012-83, s. 1.)

ng indecent liberties with children.

son is guilty of taking indecent liberties with children if, being 16 years of age or more and at least five years olde
:

Willfully takes or attempts to take any immoral, improper, or indecent liberties with any child of either sex un
years for the purpose of arousing or gratifying sexual desire; or

Willfully commits or attempts to commit any lewd or lascivious act upon or with the body or any part or memb
any child of either sex under the age of 16 years.

g indecent liberties with children is punishable as a Class F felony. (1955, c. 764; 1975, c. 779; 1979, c. 760, s. 5; 1
c. 63, s. 1, c. 179, s. 14; 1993, c. 539, s. 1201; 1994, Ex. Sess., c. 24, s. 14(c).)

cent liberties between children.

on who is under the age of 16 years is guilty of taking indecent liberties with children if the person either:

Willfully takes or attempts to take any immoral, improper, or indecent liberties with any child of either sex wh
years younger than the defendant for the purpose of arousing or gratifying sexual desire; or

Willfully commits or attempts to commit any lewd or lascivious act upon or with the body or any part or memb
any child of either sex who is at least three years younger than the defendant for the purpose of arousing or gratify

ation of this section is punishable as a Class 1 misdemeanor. (1995, c. 494, s. 1; 1995 (Reg. Sess., 1996), c. 742, s.

itation of child by computer or certain other electronic devices to commit an unlawful sex act.

ise. - A person is guilty of solicitation of a child by a computer if the person is 16 years of age or older and the p
commit an unlawful sex act, entices, advises, coerces, orders, or commands, by means of a computer or any other
orage or transmission, a child who is less than 16 years of age and at least five years younger than the defendan
s to be a child who is less than 16 years of age and who the defendant believes to be at least five years younger thar
endant or any other person for the purpose of committing an unlawful sex act. Consent is not a defense to a charge u
sdiction. - The offense is committed in the State for purposes of determining jurisdiction, if the transmission th
ginates in the State or is received in the State.
ment. - A violation of this section is punishable as follows:

A violation is a Class H felony except as provided by subdivision (2) of this subsection.

If either the defendant, or any other person for whom the defendant was arranging the meeting in violation of thi
appears at the meeting location, then the violation is a Class G felony. (1995 (Reg. Sess., 1996), c. 632, s. 1; 200
218, s. 5; 2009-336, s. 1.)

ng indecent liberties with a student.

efendant, who is a teacher, school administrator, student teacher, school safety officer, or coach, at any age, or wh
t least four years older than the victim, takes indecent liberties with a victim who is a student, at any time during or
tim were present together in the same school but before the victim ceases to be a student, the defendant is guilty o
t is covered under some other provision of law providing for greater punishment. A person is not guilty of taking
ne person is lawfully married to the student.
fendant, who is school personnel, other than a teacher, school administrator, student teacher, school safety officer, c
ears older than the victim, takes indecent liberties with a student as provided in subsection (a) of this section, the d
.
nt is not a defense to a charge under this section.
rposes of this section, the following definitions apply:

"Indecent liberties" means:

a. Willfully taking or attempting to take any immoral, improper, or indecent liberties with a student for the pu
or gratifying sexual desire; or

information exchanges.

Allows users to create Web pages or personal profiles that contain information such as the name or nickr photographs placed on the personal Web page by the user, other personal information about the user, and links Web pages on the commercial social networking Web site of friends or associates of the user that may be accessed visitors to the Web site.

Provides users or visitors to the commercial social networking Web site mechanisms to communicate with othe message board, chat room, electronic mail, or instant messenger.

ımercial social networking Web site does not include an Internet Web site that either:

Provides only one of the following discrete services: photo-sharing, electronic mail, instant messenger, or chat board platform; or

Has as its primary purpose the facilitation of commercial transactions involving goods or services between its mer ction. - The offense is committed in the State for purposes of determining jurisdiction, if the transmission that cons ı the State or is received in the State.

ıment. - A violation of this section is a Class I felony. (2008-218, s. 6; 2009-570, s. 4.)

bility of commercial social networking sites.

ımercial social networking site, as defined in G.S. 14-202.5, that complies with G.S. 14-208.15A or makes other r ffender who is registered in accordance with Article 27A of Chapter 14 of the General Statutes from accessing its ıble for damages arising out of a person's communications on the social networking site's system or network ı a registered sex offender in North Carolina or any other jurisdiction.

e purposes of this section, "access" is defined as allowing the sex offender to do any of the activities or actions des gh G.S. 14-202.5(b)(4) by utilizing the Web site. (2008-218, s. 7; 2009-272, s. 1.)

on name changes by sex offenders.

for a sex offender who is registered in accordance with Article 27A of Chapter 14 of the General Statutes to obtain l of the General Statutes. (2008-218, s. 8.)

rved for future codification purposes.

rved for future codification purposes.

rved for future codification purposes.

RECEIVED
MAR - 8 2016
DEBORAH S. HUNT, Clerk

No: 15-5345

IN THE UNITED STATES COURT OF APPEALS FOR THE 6TH CIRCUIT

Chris Sevier
(Appellant-Plaintiff)

v.

Google Inc., Verizon Wireless Tennessee Partnership d/b/a Verizon Wireless, Samsung Electronics America Inc, Android, Life's Good Inc., (LG), Motorola, Inc., xBox Inc., Microsoft Inc., in his official Capacity, Planned Parenthood Federation of America

(Appellees-Defendant)

Lauren Dixon

(Intervening Appellant)

On Appeal From The United States District Court for The Middle District of Tennessee at Nashville

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APPELLANT BRIEF

"The eye is the lamp of the body. If your eyes are healthy, your whole body will be full of light." Matthew 6:22

www.fightthenewdrug.org

"May God have mercy upon my enemies, because I won't."

General George S. Patton

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ORAL ARGUMENT REQUESTED

CIRCUIT RULE 26.1 CORPORATE DISCLOSURE STATEMENT

"At what point shall we expect the approach of danger? By what means shall we fortify against it?-- Shall we expect some transatlantic military giant, to step the Ocean, and crush us at a blow? Never!--All the armies of Europe, Asia and Africa combined, with all the treasure of the earth (our own excepted) in their military chest; with a Buonaparte for a commander, could not by force, take a drink from the Ohio, or make a track on the Blue Ridge, in a trial of a thousand years. At what point then is the approach of danger to be expected? I answer, if it ever reach us, it must spring up amongst us. It cannot come from abroad. If destruction be our lot, we must ourselves be its author and finisher. As a nation of freemen, we must live through all time, or die by suicide." President Lincoln; Lyceum Address

The following information is submitted pursuant to Cir. R. 26.1 and Fed. R. App. P. 26.1: 1. Is said party a subsidiary or affiliate of a publicly owned corporation? If yes, list the identity of the parent corporation or affiliate and the relationship between it and the named party: No.

2. Is there a publicly owned corporation, not a party to the appeal, that has a financial interest in the outcome? If yes, list the identity of such corporation and the nature of the financial interest: No

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John Adams wrote, "The Christian religion is...the Religion of Wisdom, Virtue, Equity, and humanity."

TABLE OF AUTHORITIES

"Our Constitution was made only for a moral and religious people. It is wholly inadequate to the government of any other." - John Adams

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STATUTES AND REGULATIONS

DECLARATIONS

OTHER AUTHORITIES

STATEMENT IN SUPPORT OF ORAL ARGUMENT

Oral argument is requested. I respectfully request oral argument to address any questions the panel of the United States Court of Appeals for the Sixth Circuit may have regarding the facts and applicable law.

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JURISDICTIONAL STATEMENT

Engraved on the metal cap on the top of the Washington Monument are the words "Praise be to God."

This Court has jurisdiction of the subject matter pursuant to 28 U.S.C. §§ 1331 and 1343 (arising under 18 U.S. Code §§1961-1968 (RICO) and 15 U.S.C.§ 1051 (Lanham) and 28 U.S.C. § 1332.

STATEMENT OF THE ISSUES

Take no part in the unfruitful works of darkness, but instead expose them.Ephesians 5:11

1. Whether the July 3, 2014 first motion to amend/first amended complaint (DE 13) filed prior to service was nullified twice over by the filing of the (1) November 27, 2014 motion to amend (DE 145) and the (2) January 19, 2015 motion to amend/first amended complaint DE (190, 191; exhibit 1).

2. Whether on February 20, 2015, the Magistrate exercised options he did not have when he (1) granted the July 3, 2014 nullified first motion to amend (DE 13) and (2) denied the motion to amend at DE 145 and DE 190. (See DE 209) Whether the Magistrate's February 20, 2015 denying the subsequent motions to amend at DE 145 and DE 190 as moot was invalid. (DE 209). If the Magistrate's reports and recommendations were invalid, so were their adoption by the District Court.

2. Whether the July 3, 2014 first motion to amend/ amended complaint (DE 13) was nullified due to the fact that (1) on December 30, 2014, the Appellant served Samsung (DE 171) and (2) on January 19, 2015, the Appellant filed an amended complaint at (DE 191, exhibit 1) within 21 days of service as a matter of course in a manner where leave was not required in accordance with 15(a)(1)(1). see *DaClark v. Johnston*, 413 F. App'x 804 (6th Cir. 2011). If the January 19, 2015 amended complaint (DE 191, exhibit 1) was controlling in step with the express language of 15(a)(1)(1), then the Magistrate exercised options he did not have when he (1) granted the July 3, 2014 motion to amend (DE 208); (2) denied the November 27, 2014 and January 19, 2015 motions to amend (DE 209); and (3) granted Dell's and Verizon's motions to dismiss the July 3, 2014 amended complaint. (DE 210-211).

3. Whether reversing the Magistrate's decision on DE 208 and DE 209, it will overturn the orders to dismiss to include Verizon's motion to dismiss at DE 211and Dell's motion to dismiss at DE 210, since those motions were exclusively directed

at the nullified first amended complaint filed on July 3, 2014 (DE 13), and not the other subsequently filed complaints. (DE 49, 51, 248, 249, 250).

3. Whether Mrs. Dixon should be allowed to intervene, and if so, whether the Court should automatically reverse and order that Appellant Sevier and Dixon provide a complaint within 30 days that mirrors the ones filed by the two in (1) in *Dixon v. Blackberry*, 2:2016-cv-00040 (N.D. Tex 2016) before the Honorable Judge Gilstrap and the Honorable Magistrate Judge Payne) and in (2) in *Sevier v. Hewlett-Packard Complany,* 16886-NC (N.D. Cal. 2016) before the Honorable Judge Cousins).

4. Whether any of the complaints and amended complaints filed in this action violates rules 8(a) and (d) and warrant dismissal with prejudice under the harsh imposition of Rule 41(b) in a case of first impression where these things are at issue: (1) toxic subject matter of pornography that is itself victimizing; (2) fraud and racketeering claims subjected to F.R.C.P 9 pleading standards; (3) broken parental controls serving, as a misdirection; (4) complex first amendment laws regarding first amendment heightened scrutiny standard; (5) advanced technology that is not easy to understand, (6) the brain science of addiction; (7) crushingly embarrassing and personal subject matter; (7) unaddressed criminal misconduct committed by an influential enterprise with clout and lobbying power; (8) Congressional non-responsiveness due to the twisting of public perception; and (9) complicated neurology, where beta fosb, dopamine, the limbic system, neurotransmitters, oxytocin, and serotonin are at bar.

7. Whether the claims in any of complaints violate 12(b)(1) of the Federal Rules of Civil Procedure, lacking in subject matter jurisdiction for being "implausible" in accordance with *Apple v. Glenn*, 183 F.3d 477, 479 (6th Cir. 1999) and the unsupported feelings of opposing counsel and the Court or whether the 33 Declarations filed by the Appellant in support of this action establish subject matter jurisdiction. (DE 211).

7. Whether our courts are ready to more fully resolve whether we are (1) a rule of law/Christian Nation (in step with *Church of the Holy Trinity v. United States*, 143 U.S. 457 (1892), where the basis of laws and policy is predicated on Christian reality, or whether we are (2) a Savage Nation under the religious doctrine of post-modern relativism, where the basis of court rulings and policy are predicated on the ends justify the means tactics and the semi-religious doctrine of cultural

driven relativism (in step with *Planned Parenthood v. Casey,* 505 U.S. 833 (1992).[1]

STATEMENT OF THE CASE

Here is a timeline of some of the law and procedural history that lead up to the action here, which supports subject matter jurisdiction. In the first obscenity case, the Justice Yates stated:

"The destruction of morality renders the power of government invalid, for government is no more than public order. It weakens the hands by which society is kept together. The corruption of the public mind, in general, and debauching the manners of youth, in particular, by lewd and obscene pictures...must necessarily be attended with the most injurious consequences."*Commonwealth v Sharpless* (2 Serg & Rawle 91 (Sup. Ct. Penn. 1815).

In 1892, the USSC memorialized that "America is a Christian Nation," establishing that Christianity as a common yardstick for law, policy, reasonableness, and "right and wrong." *Church of the Holy Trinity v. United States*, 143 U.S. 457 (1892). In the 1940s, Dr. Kinsey, a priest of relativism, introduced the junk science of "sexology," which relativist in media and government embraced to liberalized

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[1] Here are two other implied questions: (1) Whether the Court has the wisdom and humility to see this action will restore its reputation in the area of pornography, since Congress has left the Courts out to dry ever since COPPA was struck down in *Ashcroft v. Am. Civil Liberties Union*, 535 U.S. 564, 122 S. Ct. 1700, 152 L. Ed. 2d 771 (2002). It is not just the Appellees who are on trial here, but the Court's capacity for integrity in the area of sexuality. (2) Whether the tech companies can legitimately shoehorn themselves into the "computer service" and "interactive website category," ignoring that this is a products liability lawsuit regarding the design of their physical products, hiding behind section 230 of the Communications Decency Act as a immunity shield, a statute that was formed to promote decency, not indecency.

policy. In 1964, in *Jacobellis v. Ohio, 378* U.S. 184 (1964), the Court famously stated:

"I shall not today attempt further to define the kinds of material I understand to be embraced within that shorthand description ["hardcore pornography"], and perhaps I could never succeed in intelligibly doing so. But I know it when I see it."

In 1968, the USSC found that the state's display obscenity statutes that require retailers to sell "girlie magazines" behind barrier filter/shields constitutional under the first amendment height scrutiny tests. *Ginsberg v. New York,* 390 U.S. 629, 639–40, 88 S.Ct. 1274, 20 L.Ed.2d 195 (1968).[2] In 1973, the USSC found that "obscenity" is not protected speech for purposes of the first amendment, providing a solid test to define/identify obscenity. *Miller v. California*, 413 U.S. 15, 3034 (1973). [3] In 1991 at a meeting between Steve Jobs and Bill Gates, the "porn

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[2] To "simply adjusts the definition of obscenity to social realities" has always failed to be persuasive before the Courts of the United States. *Ginsberg.*, 390 U.S. 629 at 1280; *Mishkin v. State of New York*, 383 U.S. 502, 509, 86 S.Ct. 958, 16 L.Ed.2d 56; *Bookcase, Inc. v. Broderick*, supra, 18 N.Y.2d, at 75, 271 N.Y.S.2d, at 951, 218 N.E.2d, at 671. The *Ginsberg* Court explained that "[t]he legislature could properly conclude" that parents who have "primary responsibility for children's well being are entitled to the support of laws designed to aid discharge of that responsibility," *id.* at 639, "[t]he State also has an independent interest in the wellbeing of its youth," *id.* at 640, and the legislature was entitled to regard the material covered by the statute as "impairing the ethical and moral development" of minors, *id.* at 641.

[3] "Obscenity is not within the area of protected speech or press." *Court v. State*, 51 Wis. 2d 683, 188 N.W.2d 475 (1971) vacated, 413 U.S. 911, 93 S. Ct. 3032, 37 L. Ed. 2d 1023 (1973) and abrogated by *State v. Petrone*, 161 Wis. 2d 530, 468

compact/Enterprise" was formed.[4] All of the other tech companies subsequently joined the Enterprise. (DE 262 Yarro ¶¶ 38-45). The Enterprise's goals, organization, tactics, and practices were not novel or original; the Tech Enterprise borrowed plays from the playbook of the auto and Tobacco Enterprises.[5] The Tech

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N.W.2d 676 (1991); *State v. Weidner*, 2000 WI 52, 235 Wis. 2d 306, 611 N.W.2d 684; *Ebert v. Maryland State Bd. of Censors*, 19 Md. App. 300, 313 A.2d 536 (1973). Obscenity is not protected expression and may be suppressed without a showing of the circumstances which lie behind the phrase "clear and present danger" in its application to protected speech. *Roth v. United States*, 354 U.S. 476, 485, 77 S.Ct. 1304, 1309, 1 L.Ed.2d 1498. *United States v. Gendron*, S24:08CR244RWS(FRB), 2009 WL 5909127 (E.D. Mo. Sept. 16, 2009) report and recommendation adopted, S2 4:08CR 244 RWS, 2010 WL 682315 (E.D. Mo. Feb. 23, 2010); *Chapin v. Town of Southampton,* 457 F. Supp. 1170 (E.D.N.Y. 1978); *Sovereign News Co. v. Falk*e, 448 F. Supp. 306 (N.D. Ohio 1977);

[4] http://www.networkworld.com/article/2220412/data-center/steve-jobs-chatting-with-bill-gates-in-1991.html

[5] (DE 262 ¶ Yarro) Like when the auto-industry refused to provide seat belts, the Enterprise did not provide functional safety/shields to hold the bank of pornography that is unavoidable in using their products at bay in order to prevent foreseeable injury in step with Tenn Code Ann S 39-17-914(a) (1991). The Enterprise perpetuated a self-serving narrative where "parents/users" are to blame for harm from interfacing with the pornography, just like the auto-industry blamed "the nut behind the wheel" following car accidents. Both the tech enterprise and the auto-industry refuse to come terms with the fact that without cars and without the devices, there would not be injuries from auto-accident or injuries from the secondary harmful effects of pornography in the first place - see superseding cause. Like with the Tobacco Enterprise, the tech Enterprise knows that pornography is addictive and harmful to a person's mental, emotional, sexual, and reproductive health, but the Enterprise refused to provide warnings and safety features because they want consumers co-dependent on their products and addicted to the stimulus they distribute. Every year the world's largest tech summit is held at the same time and even often housed under the same roof as the world's largest adult expo in Las Vegas because the porn industry and tech industry are in bed together. Pornography is driving technology and interfacing with superficial "family

Enterprise does not want to be regulated in the area of obscenity because it fears a slippery slope: regulation in obscenity will lead to regulation in copyright infringement and other forms of dangerous speech - like calls to join ISIS jihad.[6] (Consider Apple's reaction to the FBI's request to gain access to a terrorist's cell phone). The tech Enterprise wants to remain self regulated, maintaining the "open and share model," under their "wait and see" approach.[7]

In 1992, Justice Kennedy imperialistically declared that the United States had converted from a Christian Nation to a Savage Nation, now operating as a theocracy under the oppressive dogma of relativism. Justice Kennedy enshrining

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friendly" Capitalistic Conglomerates. (1) Live Chats; (2) Anti-Fraud Security; (3) Online Payment systems; (4) Streamed Video; (5) micro-payment systems; (6) pop-ups and pop-unders; mobile service; and (7) traffic optimization were all developed by the pornographers and capitalized on by the Tech Enterprise. R & D money for pornography developed these things in league with the Tech companies.

[6] The Enterprise wants to be self-regulated and wants to make their consumers responsible for policing themselves, regardless of the age of the consumer and the foreseeable dangers the design of their products presents. The Tech Enterprise profiteers on distributing stimuli and content with absolute impunity in a manner that violates anti-trust laws. (Both the music business and traditional adult industries have all but been driven out of business, being forced to compete with free due to the open and share platform provided by the Appellees with devastating economic implications.

[7] We have "waited" and "seen" that not requiring the tech companies to comply with state and federal obscenity laws has created a porn pandemic, public health crisis, and sexual holocaust. (DE 262 Yarro ¶¶ 46-48; DE 136 Clean Services; DE 135 M.A.T.H.)

the modern mindset floating: "At the heart of liberty is the right to define one's own concept of existence, of meaning, of the universe." *Planned Parenthood v. Casey,* 505 U.S. 833 (1992).[8]

In 1996, Congress passed the Communications Decency Act (CDA) to attempt to stifle the problems cultivated by the tech Enterprise's illegal distribution of pornography. The ACLU challenged the CDA in court, and it failed to survive first amendment heightened scrutiny for good reason. *Reno v. ACLU*, 521 U.S. 844, 117 S.Ct. 2329, 138 L.Ed.2d 874 (1997). The problem with the CDA was that it was designed to regulate individual consumers, not the handful of readily identifiable tech companies, who distribute the obscene content in the first place.[9] Congress's attempt to appease all sides failed.

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[8] The sign over the entrance of Buchenwald concentration camp read: "Jedem das Seine," which means "to each his own." Which is the same gospel narrative Justice Kennedy and other Judge's like him promote.

[9] Section 230 of the CDA was not challenged and remains in tact. The Enterprise - in step with their pattern to use dishonesty to justify the greedy ends are going to attempt to reclassify themselves in order to be shielded from liability by employing a distorted use of section 230. At best, such a tactic will amount to creative lawyering that the Court should at best laugh at. This is a lawsuit regarding the bad design of "physical products," not "interactive websites" and "computer services." Although a defense under the CDA can only be raised at a motion for Summary Judgment, the Court should address this matter now so that we can have some substantive discussions.

In response to the CDA's failure, Congress passed the Child Online Privacy Protection Act (COPPA). The ACLU challenged COPPA in court, causing it to be struck down for offending first amendment heightened scrutiny challenges. The problem with COPPA was that it was designed to regulate individual website makers, who were only located inside the United States. COPPA could not regulate pornography website makers overseas, making the statute moot and irrational. Like the CDA, COPPA also failed to regulate the handful of readily identifiable tech companies, who distribute the obscenity illegally on the front end.[10] Yet, the COPPA decision was significant as it applies here. The Federal Courts did not just strike down COPPA without providing an alternative solution. All three COPPA Courts repeatedly stated that "filters" were the least restrictive means to block pornography. *Am. Civil Liberties Union v. Reno*, 31 F. Supp. 2d 473, 476 (E.D. Pa. 1999); also aff'd, 217 F.3d 162 (3d Cir. 2000) vacated sub nom. *Ashcroft v. Am. Civil Liberties Union*, 535 U.S. 564, 122 S. Ct. 1700, 152 L. Ed. 2d 771 (2002). The COPPA Courts found that the Device Makers and Internet Service Providers

[10] Both CDA and COPPA failed to regulate the actual guilty party and the source of the pornography pandemic - the device makers that distribute the pornographic content in the first place. Without the distribution platform provided by the Enterprise, the harm caused by the digital pornographic content would be virtually non-existent. The design flaws of the Enterprise's products is at the front of the causal chain of harm that is cultivating in unimaginable damage to our world.

could validly be subjected to regulations that require them to sell their products with pre-set filters activated. *Id.* A Congressional inquiry group that was commissioned during the COPPA case reached the same findings that filters are "the least restrictive means." *Id.* The USSC in its final opinion in *Ashcroft* essentially instructed the US Attorney General to report back to Congress and instruct the legislature to pass filter law that would regulate the handful of readily identifiable members that make up the Tech Enterprise.[11] *Id.* Yet, Congress has refused to be responsive, leaving the Court out to dry, causing the public to believe for form the perception that the Federal Courts favor pornography.

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[11] The COPPA Courts basically clarified that filter legislation - (COFA Child Online Filter Act) would help solve the porn pandemic, protecting families and children and passing first amendment heightened scrutiny challenges in ways that the CDA and COPPA failed. And yet despite these considerations, Congress continues to refuse to introduce filter legislation which would regulate the tech companies because they have been paid off. The President and Congress have been bought by the Tech Enterprise and held hostage by distorted public perceptions proliferated by the Tech Enterprise itself. Congress is also afraid of the ACLU for good reason and Congress hates dealing with pornogrpahy because the subject matter, alone, is toxic. What we have on our hands is a breakdown in the political system that only the Honorable Federal Courts can remedy. Currently, when it comes to the other two branches, we have a Democracy for hire. We do not have a government "of the people, by the people, for the people." We have a government of the Microsofts, by the Samsungs, for the Apples. Congress is far too reductionistic and simplistic to move on this without a decision from the Court that forces their hand. This is a nasty case, involving a toxic subject matter, but we here must deal with these matters involving personal injury for the greater good.

Due to the lack of regulation over the Enterprise, the Enterprise has been enabled to falsely advertise regarding the safety of their so called "family-friendly" products to induce false reliance in step with their greed scheme at the expense of the public's health.[12] The Enterprise's false statements caused the Appellant's injury and damage to millions of others to include minors, like intervening Appellant Dixon's and the 35,000 teenagers who are members of Fight The New Drug. Despite floating a litany of dishonest statements about the safeness of the Enterprise's products, Steve Jobs acknowledged on behalf of all of the members of the enterprise a **duty** to remove pornography from their products, sounding off to

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[12] Steve Jobs stated a freedom from porn campaign, falsely advertising that pornography was not accessible on the Enterprise's products, stating things like "*Freedom from porn. Yep, freedom. The times they are a changin' and some traditional PC folks feel their world is slipping away. It is.*" There are literally publications in the media who say that Steve Job's greatest legacy was his Freedom From Porn Campaign. Given Apple's resolve to defend their pornography distribution platform in this action, Steve Job's legacy as a pornography crusader is fraudulent. Mr. Jobs told Tech Crunch on behalf of the entire Enterprise: *"I'm all for keeping porn out of kids hands. Heck, I'm all for ensuring that I don't have to see it unless I want to. But...that's what parental controls are for. Put these types of apps into categories and allow them to be blocked by their parents should they want to."* And yet, the Enterprise refuses to sell their products with filters that are activated in a scenario where they are keeper of the password. The Enterprise knows that parental controls are inept and do not work, providing no safety whatsoever for the primary user. The fact that the Enterprise members sell their products with parental controls to non-parents is itself and omission of guilt. The Enterprise knows of the danger its products poses to minors and adults and, yet, does nothing about it.
(https://medium.com/@brianshall/the-greatest-legacy-of-steve-jobs-freedom-from-pornography-378529752e9b.)

the press: "*we [Device Makers] do believe we have a moral responsibility to keep porn off the iPhone.*" Despite these kinds of acknowledgements of a legal duty, the Enterprise refuses to sell their products with preset filters that would automatically block pornography on the front end, which would actually allow the tech Enterprise to comply with that "moral responsibility." [13]

FACTS REGARDING THE FILING OF THE COMPLAINT

"If everybody is thinking alike, then somebody isn't thinking." - General George S. Patton

Whereas Congress failed to be responsive following the demise of COPPA, Appellant Sevier and Mrs. Dixon have not. On June 17, 2013, Appellant Sevier hauled Apple into Federal Court for strict products liability, fraudulent concealment, outrageous conduct, ect.[14] Appellant Sevier analogized the

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[13] Asking the Court to make the Enterprise honor its recognized duty complained of here is hardly implausible as the District Court pretended when it granted Verizon's motion to dismiss. (DE 211). The District Court's conduct in this action is so outrageous that it demonstrates that Corporate influence has infiltrated our Judicial system - perverting it hardcore. No wonder there is so much public outrage at the status quo with Government, and candidates like Sanders and Trump seem viable, even though neither really are.

[14] The Enterprise's products never leave their instrumentality and control. This subjects them to higher standards under products liability law. *Towle v. Phillips*, 172 S.W.2d 806, 808 (Tenn. 1943). The tech companies themselves are in the best place to send out filter updates as part of the regular bundle of software updates given their insider knowledge. (DE 262 Yarro & 239 Bishop).

Enterprise's products to (1) cigarette vending machines,[15] (2) Coca Cola products back when it contained cocaine,[16] and (3) a mechanical playboy.[17] The Appellant had to plead in a way that reframes the legal and actual way to view the internet through the lens of causal connection, "but for" causation, and "superseding cause."[18] Without the machine that powers on and off there is no subsequent harm;

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[15] Just like cigarette vending machine owners can be subjected to strict liability, fraudulent concealment, and failure to warn, for the damage caused by the harmful content found inside of their product, Appellant alleged the same thing about tech companies products that contains pornography inside the device. *Richardson v. Phillip Morris Inc.*, 950 F. Supp. 700 (D. Md. 1997); *Greene v. Brown & Williamson Tobacco Corp.*, 72 F. Supp. 2d 882, 893 (W.D. Tenn. 1999).

[16] Just as Congress forced Coca Cola to remove the cocaine ingredient from their products, the Tech Companies can be required to remove the porn ingredient from theirs. (1914 Harrison Narcotics Tax Act). The scientific research shows that pornography and cocaine consumption impact the same pleasure centers of the brain. The same receptors light up.

[17] The cell phones and computers sold by the tech companies amount to a form of playboy magazine. Inside of a playboy are some neutral content, like sports ads, but there is also obscene content. And that obscene content belongs behind a shield unless the purchaser is of age and expressly wants access.

[18] The internet is not a cube in the desert that glows. The internet is a part of sum total that is the device. Without the device that powers on and off there is no internet. The tech companies have an existing duty on the front end to sell their products with shields that make an ongoing reasonable attempt to block pornography in step with state and federal obscenity laws because their products are at the front of causal chain that cultivates in hardcore damage. Apple and other members of the enterprise have a closed system. (DE 262 Yarro ¶ 37). Only they know their inner workings of their product. A third party filter company lacks the insider knowledge to create filters that would make the products safe. (DE 239 Bishop).

the physical device is at the front end of a causal chain. The Tech Enterprise is not being subjected to the law like bricks and mortar stores, creating a double standard that lacks a legal basis.[19] The lawsuit against Apple was not a about regulating speech, it was about allowing consumers to have the ability to regulate their own mental health.[20] The lawsuit demanded that the burden be shifted off of those who want to avoid pornography and placed onto those who do, requiring they take the extra steps to acquire. The lawsuit demanded that the Court enjoin the Tech Companies making them sell their products with pre-set filters that block out pornography on the front end that can be removed, only if the purchaser is over 18 and shows proof of ID at the retailer. The lawsuit demanded that the Court view the tech companies as handheld retailers and make them comply with existing state and federal obscenity laws, such as the display laws upheld here *Davis-Kidd Booksellers, Inc. v. McWherte*r, 866 S.W.2d 520 (Tenn. 1993); The case was

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[19] There is no reason for the tech industries to be treated differently under the law than any bricks and mortar 711 store. A minor is not allowed to see an R-rated movie, but they can walk around with a pornography theater in the pocket in the form of a filterless iphone. It makes no sense. The state and federal obscenity laws are not blue laws. They are not suggestions, and I expect the Federal Courts to reign the tech companies in.

[20] DE 178 ¶¶ 811 LCSW, CSAT Gray; DE 172 ¶¶ 49 LMFT Thacker; DE 173 ¶¶ 24 MFT Vande Voort , DE 180 ¶¶ 174 LCSW Ward, DE 169 M.A. Quirk ¶¶ 48; DE 176 ¶¶ 49 LCSW Adamson.

about crafting policy to make the objectively "right choice" the "easy choice" in step with universal truth. The filing of the lawsuit against Apple, sparked an international debate in every major news cycle across the globe. Letterman, Leno, Maher, O'Reilly, ect all mocked Appellant Sevier. [21] But serious leaders, like the British Prime Minister were directly responsive. As one publication in the UK correctly summarized:

"Last week, a man in the U.S. sued Apple for not including a default "safe mode" that prevented him from accessing porn. Chris Sevier said his Macbook led him to a serious porn addiction that resulted in depression and his family leaving him. While many initially mocked the case, the UK is now asking tech companies to do exactly what Sevier asked for, showing how serious lawmakers around the world are taking the issue of online pornography." [22] https://socialreader.com/me/content/XULox

Appellant Sevier asked Apple to sua sponte provide him with the relief he demanded in step with the "pro-family" narratives, they advanced in the media. In response, Apple appeared in the case ready to fight tooth and nail for the same reason that Backpage.com's lawyers vigorously defends the escort section of their website. The motives are both the same - it is all about prioritizing the making money over the public's health. (See Apple Docket Generally 3:13-cv-0607). In

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[21] Reverend King said "first they ignore you, then they laugh at you, then they fight you, then you win." - quoting Mahatma Gandhi.

[22] Although the lower court in Tennessee did not take these matters seriously in step with their incredible jadedness and nefarious delusions, the Appellant expects the 6th Circuit to handle these matters with extreme seriousness.

one of Apple's many motions to dismiss, Apple admitted that a key reason they do not sell their products with filters is because none of the other tech companies do either. (This is like Hillary Clinton arguing that she can do anything she wants because President Obama does too.) Naturally, Apple's omission compelled Appellant Sevier to sue all the other members of the Enterprise to include the Appellees named here. Pleading in this case of first impression is not easy because the case involves complex technology, neurology, addiction, embarrassing private matters, and a powerful enterprise, who has launched a herculean effort to twisted reality and bully its agenda into the conscience of the global community in order to maximize profits.[23] Since appearing in this case, the District Court in

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[23] Meanwhile, the Tennessee Supreme Court proliferated this immensely false narrative that Appellant Sevier does not even have the capacity to practice law, as a form of payback for suing two member's of the TNSC ethics commission for targeting Christian attorneys and three District Attorneys for a pattern of systemic corruption. *Sevier v. Jones,*No. 3:1100435, 2011 WL 3292116 (M.D. Tenn. Aug. 1, 2011). The one thing that Dell, Appellant Sevier, and Magistrate Knowles have in common is that they all three worked at the best law firm in Tennessee. What has happened in this action is that Dell invented this ridiculous procedural scheme to cause a nullified complaint that was not even controlling to be dismissed. The fact that Magistrate Knowles and Dell's counsel are winking across the aisle to each other in a porn case is beyond disturbing. This is not merely a silly case as to whether the Enterprise has a fundamental free speech to overwhelm their customers with highly graphic pornographic images to compel masterbation to their widgets. These are matters of life and death. The destruction of families, teen suicide, divorce, increased dangers to law enforcement, and the explosion in the demand of human trafficking corresponds directly with the Enterprise's election to bring pornography above ground. Appellant Sevier and Mrs. Dixon are not asking that the Court abolish pornography, but that the Court push it back underground..

Tennessee have behaved appallingly. This compelled Mrs. Dixon and the Appellant to file lawsuits in against other Enterprise members in other circuits.

SUMMARY OF THE ARGUMENT

First, the July 3, 2014 first motion to amend/ the first proposed amended complaint (DE 13) was nullified twice over by the filing of the November 27, 2014 motion to amend (DE 145) and the January 19, 2015 motion to amend and amended complaint DE (190, 191; exhibit 1). On February 20, 2015, the Magistrate exercised options he did not have when he granted the July 3, 2014 motion to amend (DE 208) followed by the immediate dismissal (DE 210, 211). Since the Magistrate's report and recommendations were invalid, so was the District Court's adoption. (DE 235). Second, the July 3, 2014 complaint was nullified due to the fact that (1) on December 30, 2014, the Appellant served Samsung (DE 171) and (2) on January 19, 2015, the Appellant filed an amended complaint (DE 191, exhibit 1) within 21 days as a matter of course under 15(a)(1)(1). Leave was not required. Ever since January 19, 2015, amended complaint (DE 191, exhibit 1) has been controlling under 15(a)(1)(1). When the Magistrate granted the July 3, 2014 motion to amend and dismissal motions, he exercised options that he did not have in an effort to railroad this action at the expense of human trafficking victims. (DE 208, 209, 210, 2011). Third, the 33 Declarations provided by Appellant Sevier

establishes subject matter jurisdiction and destroys the phony 12(b)(1) arguments floated under *Apple v. Glenn*, 183 F.3d 477, 479 (6th Cir. 1999) by Verizon.[24] (DE 51, 211). Fourth, none of the complaints filed - whether nullified or otherwise - violate Rule 8 (a) and (d) under the totality of the circumstances in a pro se action of first impression. Detail is the order of the deal and rule 8 is at best aspirational. Fifth, Rule 15 should compel the 6th Circuit reverse and order the District Court adopt the May 2, 2015 77 page amended complaint that clearly does not violate rule 12(b)(1) or rules 8(a) and (d). (DE 250) These matters are in their inception phase and rule 15 requires the authorization of mandatory leave.[25] Sixth, the Court should allow Mrs. Dixon to intervene and order the Appellants to file a complaint that mirrors the one they filed against Blackberry Limited.

ARGUMENT

"Moral courage is the most valuable and usually the most absent characteristic in men." General George S. Patton

First, here is the simplest solution: Mrs. Dixon should be allowed to intervene and added as a party under F.R.C.P 19 and 24. The Court should then immediately reverse the District Court, ordering Appellant Sevier and Mrs. Dixon supply an

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[24] The Appellees failed to provide a testimonial that refutes the sworn statements provided by the Appellant simply because they cannot.

[25] Just like the Enterprise has a "moral responsibility" to keep pornography off of their products, the District Court in Tennessee has a legal obligation to honor rule 15 and to not pervert the F.R.C.P in a human trafficking action.

amended complaint within 30 days that mirrors the one they filed in Blackberry and HP. (See Exhibits). They will likely only seek injunctive relief.

A. FUNCTUS OFFICIO

The District Court is Guilty Of Cherry Picking Complaints And Exercising Options It Did Not Have, Advancing A Pro-Pornography And Human Trafficking Agenda At The Expense Of The Rule Of Law And Judicial Integrity

On June 17, 2014, a original complaint was filed against the Appellees. (DE 1) On July 3, 2014, the first motion to amend was filed along with an amended complaint before service of process was accomplished. (DE 13). Leave from the Court was required before the amended complaint before the Amended complaint could be recognized. (DE 13 and 208). Yet, proceeding at their own peril, all of the Appellees filed motions to dismiss that were exclusively directed at the pending complaint to the motion to amend. (DE 13, 49, 51, 67, 112, 114, 117, 125, 201, 194). On November 27, 2014, the Appellant filed a second motion to amend, which automatically nullified the first motion to amend/amended complaint filed on July 3, 2014: "the prior pleading is in effect withdrawn as to all matters not restated in the amended pleading, and becomes functus officio."[26] On February 20,

[26] *Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992), citing Wright, Miller & Kane. Loux v. Rhay, 375 F.2d 55 (9th Cir. 1967). *Lubin v. Chicago Title & Trust Co.*, 260 F.2d 411 (7th Cir. 1958). *Nisbet v. Van Tuyl*, 224 F.2d 66, 71 (7th Cir. 1955). *Hall v. Tyco Intern. Ltd.*, 223 F.R.D. 219, 258–259 (M.D. N.C. 2004). *Jordan v. City of Philadelphia*, 66 F. Supp. 2d 638, 642 (E.D. Pa. 1999), citing Wright, Miller & Kane.Jefferson v. H. K. Porter Co., 485 F. Supp. 356, 359 (N.D.

2015, when Magistrate Knowles granted the nullified July 3, 2014 first motion to amend and motions to dismiss, he exercised an option that he knew he did not have. (DE 13, 145, 191, 208, 210, 211). Since Judge Knowles's report and recommendations were invalid, so was their adoption. (DE). Reversal is merited.

B. FILED AS A MATTER OF COURSE

The Complaint At DE 191 Exhibit 1 Was Filed As A Matter Of Course Under Rule 15 Within 21 Days Of Service And Remains Controlling

The judicial blunders do not end there. On December 30, 2014, Appellant Sevier personally served a corporate officer at Samsung through a process server. (DE 171). On January 19, 2015, within 21 days of service, Appellant Sevier filed the first amended complaint as a matter of course under rule 15(a)(1)(1).[27] (DE 191 exhibit 1) The filing of the January 19 amended complaint, taken with the November 27, 2014 motion to amend, only further nullified the motion to amend/the first amended complaint filed on July 3, 2014. (DE 13, 145, 190, 191

Ala. 1980), quoting Wright & Miller, judgment aff'd, 648 F.2d 337 (5th Cir. 1981).*Phillips v. Murchison,* 194 F. Supp. 620 (S.D. N.Y. 1961)

[27] A party wishing to amend its pleading without permission of the court or the opposing party has a 21 day time frame in which to do so as a "matter of right"or also called "matter of course" under three separate scenarios. The three instances are (1) within 21 days of serving the pleadings; (2) 21 days after a responsive pleading is served; or (3) 21 days after a rule 12 motion is served.

exhibit 1). Ever since January 19, 2015, the complaint at (DE 191 exhibit 1) has been controlling in accordance with the F.R.C.P 15(a)(1)(1). *DaClark v. Johnston*, 413 F. App'x 804 (6th Cir. 2011).[28] "[T]he party who brings a suit is master to decide what law he will rely upon." The *Fair v. Kohler Dye & Specialty Co.*, 228 U.S. 22, 25 (1922). The "party...decide[s]," not the calculating Magistrate. The amended complaints at DE 145 and 191 included the federal racketeering cause of action, which is a Federal cause of action that this Court alone has jurisdiction over. 28 U.S.C. §§ 1331 and 1343 and 18 U.S. Code §§1961-1968. There is no other venue where the Appellant can acquire relief for this cause of action against the Appellees. When Judge Knowles granted the nullified motion to amend at DE 13 and motions to dismiss, he exercised options that were not available to him. (208-211). Reversal is in order.

C. OBSCENITY LAWS AND RULE 15 ARE NOT SUGGESTIONS

Like obscenity laws in regards to the Enterprise, Rule 15 is not a suggestion for the lower Court. Even if the July 3, 2014 complaint was not nullified - and it was - and even if it did violate rules 8 (a) and (d) and 12(b)(1) - and it did not - the Court

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[28] When a pleading is amended pursuant to Federal Rule of Civil Procedure 15(a), the amended pleading supersedes the original pleading, i.e., "the original pleading no longer performs any function in the case and any subsequent motion made by an opposing party should be directed at the amended pleading," *DaClark v. Johnston*, 413 F. App'x 804 (6th Cir. 2011).

should reserve and order the District Court to adopt the May 2, 2015 amended complaint that was filed, while the April 2, 2015 motion to vacate was pending. (DE 237-238). The May 2, 2015 amended complaint is 77 pages including 16 counts with fraud and racketeering claims against nine Appellees. The Court should spend its time evaluating whether the May 2, 2015 complaint violates rule 8(a) and (d) and 12(b)(1). (see attached Exhibit).

Under Fed.R.Civ.P. 15(a)(2) "the court **must** freely grant leave to amend when a case such as this one is still in the early stages of litigation." [29] John Adams said that "facts are stubborn things." It is a fact that this action remains in the inception phase. Discovery has not even taken place, and even if it had been "the Sixth Circuit has allowed amendment even after the expiration of discovery and

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[29] In *Irwin v. Tennessee Valley Auth.*, No. 3:12CV35, 2013 WL 1681838, at *1 (E.D. Tenn. Apr. 17, 2013), the Court stated: "After the court's March 12, 2013 hearing on the TVA's motion to dismiss, Plaintiffs filed a motion for leave to amend their complaint (see Docket No. 23) to clarify and add factual allegations that had been raised in their opposition brief, which, in combination with allegations contained in Plaintiffs' original complaint, stated a claim for violation of First Amendment rights. Although the motion for leave to amend has not been fully briefed, the court must freely grant leave to amend when a case such as this one is still in the early stages of litigation. Fed.R.Civ.P. 15(a)(2). The proposed first amended complaint drops certain causes of action, deletes Mr. Kilgore's name from the list of Defendants, and clarifies factual allegations. The changes in the proposed first amended complaint do not prejudice the Defendants' ability to defend the against the lawsuit, and the proposed amendment would not be futile. Because the Plaintiffs are entitled to file their proposed amended complaint, the court considers the allegations set forth in the proposed first amended complaint to determine whether TVA's motion to dismiss should be granted."

after the time for amended pleadings in the scheduling order." *See, e.g., United States v. Wood*, 877 F.2d 453, 456 (6th Cir. 1989). Fed.R.Civ.P. 15(a) states that leave "**shall** be freely given when justice so requires." The 33 declarations and supporting exhibits supplied to the court demonstrate that "justice so requires" and the Court **shall** be responsive. The District Court is advancing "Savage Nation" at the expense of "Rule of Law Nation" in the area of sexuality in a way that is incredibly evil. Appellant Sevier filed the May 2, 2015 77 page amended complaint in good faith that corrects any non-prejudicial procedural concern regarding any prior complaint to include the one filed on January 19, 2015. The District Court only allowed the Appellant in a case of first impression where discovery was maliciously stayed to amend his complaint once by granting a nullified amended complaint in bad faith. In other actions, were far less legally cognizable,[30] parties have been allowed to amend multiple times, which speaks

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[30] The Sixth Circuit applies a balancing test of these factors, which turns on substantial prejudice to the opposing party. See, e.g., *Lawson v. Truck Drivers, Chauffeurs & Helpers, Local Union* 100, 698 F.2d 250, 256 (6th Cir. 1983); *Hageman v. Signal* L.P. Gas, Inc., 486 F.2d 479, 484 (6th Cir. 1973). My racketeering for violations of mail fraud, wire fraud, human trafficking, and obscenity in my pending 77 page amended complaint against nine defendants are "legally cognizable." *Jet, Inc. v. Sewage Aeration Sys.*, 165 F.3d 419, 425 (6th Cir.1999). Specifically, "a motion to amend a complaint should be denied if the amendment is brought in bad faith, for dilatory purposes, results in undue delay or prejudice to the opposing party, or would be futile." *Crawford v. Roane*, 53 F.3d 750, 753 (6th Cir.1995) (citation omitted); *Marx v. Centran*, 747 F.2d 1536, 1550 (6th Cir.1984), cert. denied, 471 U.S. 1125, 105 S.Ct. 2656, 86 L.Ed.2d 273

adversely to the District Court's integrity.[31] The true hallmark of Judge Sharp and Judge Knowles is that they recklessly set bad precedent and proliferate perversion by elevating their own narcissism over the interest of the public's health and the rule of law. It is an act of treason.

D. THE 33 DECLARATIONS THAT KILLED THE 12(B)(1) ARGUMENT

In terms of credibility, Verizon and Google both managed to land on the 2016 "dirty dozen" list published by the National Center On Sexual Exploitation. In dealing with an enterprise the defines "good as bad" and "bad as good," Verizon and Google must be very proud of that credential. It was Verizon, who first pitched that the Appellant's case should be dismiss under rule 12(b)(1) for lack of subject matter jurisdiction. (DE 211 and 51). To support that position, the Verizon float a single case in support: *Apple v. Glenn*, 183 F.3d 477, 479 (6th Cir. 1999). Mr. Apple sued a host of Federal Judges - probably ones like Magistrate Knowles - for

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(1985)). One instance in which a proposed amendment would be futile and should therefore be denied is when it seeks to add a cause of action that is not legally cognizable. *Jet, Inc. v. Sewage Aeration Sys.*, 165 F.3d 419, 425 (6th Cir.1999).

[31] In *Spurlock v. Fox*, No. 3:09 CV00756, 2011 WL 6122568, at *1 (M.D. Tenn. Dec. 8, 2011) report and recommendation adopted in part, rejected in part, No. 3:09 CV00756, 2012 WL 10605 (M.D. Tenn. Jan. 3, 2012), the Court allowed the Plaintiff amend his complaint three times stating: "On August 31, 2009, plaintiffs filed their initial complaint in this proceeding. Between that time and November 2, 2009, plaintiffs amended the complaint three times, once under Fed. R. Civ. P. 15(a)(1) as a matter of course and twice by motion and leave of the Court."

reasons that are hard to understand, and his complaint was more of a handwritten letter than a complaint. Mr. Apple's action was dismissed for being meritless and implausible. Mr. Apple was a pro se litigant, like Appellant Sevier but he was unfortunately not the beneficiary of prior legal training by institutions like TJAGLCS and Vanderbilt University schools of politics and law. The Appellant provided a over 33 solid declaration that insurmountably establish the plausibility of this action.[32] Conversely, the Appellees failed to provide a single testimonial in

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[32](DE 135) Mothers Against Trafficking Humans; (DE 136) Clean Services Foundation Founder John Gunter; (DE 138) Form Porn Star JanVillarubia; (DE 144) Former Porn Star Shelley Lubben Founder Of Pink Cross Foundation; (DE 262) CEO of Think Atomic Ralph Yarro; (DE 169) M.A. Denise F. Quirk; (DE 172) LMFT Stacey B. Thacker; (DE 173) MFT Roberta Vande Voort; 174 LCSW Max C. Ward; (DE 176) Founder of the LoneStar Coalition Against Pornography LCSW Shane Adamson; (DE 178) Founder of Lifestar Network LCSW CSAT Dan C. Gray; (DE 185) Founder Of Battle Plan Ministries Ordained Minister William R. Berry; (DE 188) Middle School Guidance Counselor Matt Zollinger; (DE 205) Former Lt. General of the State of California and Founder of Candle Light Society John Harmer; (DE 206) Mrs. Minnesote Globe 2015, National Television Host, Public Advocate for Shared Hope International Wendi Russo; (DE 239) CEO and Chairman of Content Watch and Net Nanny Brent Bishop; (DE 252) Safe Libraries CEO Attorney Dan Kleinman; (DE 256) Mayor Joaitn B. Shghini; (DE 257) Dr. LaNae Valentine Professor Of Women's Studies at BYU University; (DE 263) Lauren Taylor Dixon minor who became a Female Porn Addict; (DE 264) The President of United Families International Laura Bunker; (DE 268) Sula Skiles Survivor Of Sex Trafficking; (DE 269) Michael Robinson CMHC, SOTP Department Of Corrections Utah State Prison Draper, Program Director/ Clinical Therapist Supervisor. (DE 270) The Managing Director of In Our Backyard Nita Belles; (DE 272) Sarah Zalonis Survivor Of Human Trafficking; (DE 281) Lietenant Colonel Kevin Yates; (DE 287) Dr. Leigh PsyD; (DE 289) Executive Director Of Ark Of Hope Children's Mission; (DE 34, exhibit 3 and attachment 4),

challenging the merits of this action. At best, all that was offered was the feelings of Appellee's counsel and the unsupported feelings of the Magistrate, who is more of a con artist than a normal justice. The 6th Circuit should be unimpressed with the District Court and Appellee's circular reasoning. [33] TMZ would have a field day with the receipt of declarations by these so called "family friendly" corporations. Perhaps like Tobacco experts before Congressional inquiries, the Enterprise's experts could assert that the pornography they illegally distribute is no more harmful to minors than "eating twinkies," and see how that goes over.[34] The fact that the USSC has already found the secondary harmful effects of pornography to be inescapable would not spare the Appellees, even if the Appellees could manage to bring in witnesses to combat the 33 sworn statements that the Appellants provided.[35]

CEO of Fight The New Drug Clay Olsen and 1,000 testimonials from minors; (DE 34, exhibit 7), Tiffany Leaper Founder of Girls Against Pornography.

[33] Surely, if the Appellees should recruit these experts: https://www.youtube.com/watch?v=A6B1q22R438

[34] Tobacco experts: Cigarettes are no more harmful for kids than twinkies: https://www.youtube.com/watch?v=NC4f_yfuR34&ebc=ANyPxKqb7yw4nigQA1DYgBFxhxDJfdT_sQJn32v8_daC1Nda-Y2RDZwOqZfcONj8JFXaTcwM0bmtBnjA6oWk3xNObbTmBd07bQ

[35] As a combat Army Officer, the Appellant Sevier does not mind a swift kick to the teeth from a federal actor from time to time, but the Court of Appeals should demonstrate immense respect for the declarants who were bold enough to provide testimony in this case at great risk to their personal interests.

E. NONE OF THE AMENDED COMPLAINTS VIOLATE RULE 8

The July 3, 2014 and January 19, 2015, amended complaints do not violate rule 8. And even if they do, the complaint filed on May 2, 2015 clearly does not. The Federal Rules 8(a)(2) requires a "short and plain" statement of a party's claim for relief. What constitutes a short and plain statement must be determined in each case on the basis of the nature of the action, the relief sought, and the respective positions of the parties in terms of the availability of information and a number of other pragmatic matters.[36] Rule 8 is at best "aspirational and a liberal construction."[37] "Detail is the order of the day."[38] Federal pleadings are not expected to be of a

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[36] When pleading a new or novel legal theory, a plaintiff is still only required to plead a short and plain statement showing that he or she is entitled to relief. When facing a motion to to dismiss pursuant to rule 12(b)(6), however, the Plaintiff can present an argument that the theory is the natural progression of the law, and should be recognized as valid. *Kirksey v. R.J. Reynolds Tobacco Co.*, 168 F.3d 1039, 1041 (7th Cir. 1999). This case involves a natural progression of the law and the amended complaint should be adopted as is.

[37] The federal rule requiring that a claim be short and plain statement showing that the pleader is entitled to relief is to be construed liberally. *Hanson v. Hunt Oil Co.*, 398 F.2d 578, 581. (8th Cir. 1968)

[38] It always should be borne in mind that the federal rules reflect the judgment of the drafters that polishing the pleadings by means of motion practice rarely is worth the effort and has nothing to do with ascertaining the merits of the action. As mentioned before, the federal rules only need to interpose a short plain statement of the claims showing that the pleader is entitled to relief. Thus, whether the specificity standard of 19 rule 8(a)(2) has been satisfied is to be determined by whether the pleading gives fair notice to the opposing party, and not whether it

uniform length or complexity.[39] Appellant did not have much of an outline to go by when these cases first began. Refinement is part of the process, and the fact that the amended complaint now involves RICO and fraud claims filed by a pro-se cannot be discounted just because Judge Knowles wants to make his former law partner who represents Dell look good. The quid pro quo is deafening. There are other cases where less was at stake and where the complaint was lengthier than the Appellant's and yet survived.[40] The Court should reverse the rule 8 challenge for

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contains "ultimate facts" as opposed to "evidence," or "conclusions." No more precise test can be stated because the appropriate level of generality for a pleading depends on the particular issue in question or the substantive context of the case before the court. *Boston and Maine Corp. v. Town of Hampton*, 987 F. 2d 855 (1st. Cir. 1993). It must be remembered that the federal rules require a short and plain statement of a claim for relief that provides fair notice to the opposing party; it does not make any difference whether the pleading accomplishes this by stating "conclusions," "ultimate facts," or "evidence." The Supreme Court has taken the occasion to remind us of this principle. *Swierkiewicz. v. Sorema*, 122 S.Ct. 992, 534 U.S. 506, 152 L.Ed. 2d (2002).

[39] *In re Global Crossing, Ltd.,* 2003 WL 2299478 (2003) the Court stated that although the complaint contained 840 paragraphs spread over 326 pages, complaint asserted a large number of claims against myriad defendants, all arising out of particularly complex accounting fraud, and therefore it was understandable that the complaint was quite large. As much as Judge Knowles wants to pretend that the complaint/letter in *Apple v. Glenn*, 183 F.3d 477, 479 (6th Cir. 1999), in which the Plaintiff named Judges as defendants, parallels the one here. The Complaint in In re Global is far more comparable.

[40] In *Morgan v. Korbin Secs. Inc.*, 649 F.Supp. 1023, 1027 (1986), an eighty-eight page complaint was not defective for failure to contain a short and plain statement, when five plaintiffs were raising thirteen separate claims against fifteen separate defendants. Although Apple is a lone defendant here, there are at least 30 other

abuse of discretion under *Babb v. Bridgestone/Firestone*, 861 F. Supp. 50 (Tenn 1993).[41] Given the evidence demonstrating that Appellees understands the complaint - alone - must compel this Court to find that the lower court is peddling fiction in a pro-child exploitation manner that warrants reversal.[42] And whether

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potential defendants, who I could have added. I did move to consolidate this action with Google after all. Yet, in this connection, it should be noted that that Rule 8(a)(2) speaks of a short and plain statement of each claim, not a short and plain pleading. On that consideration alone the rule 8 challenge dies. The first 25 pages of the complaint involve the introduction, parties, venue, and fact section - Apple already filed a motion a different complaint under rule 12(b)(6) for insufficient pleading of facts. Apple cannot now turn around and say there are too many facts being pled. The last eight pages cover the claim for relief. The remainder is divided up between 16 counts to include sub-counts. By far the longest claims of relief are the racketeering ones totaling 30 pages, which leaves an average of 1.9 pages for the remaining 14 claims. Most of the 16 counts are justified "common counts" as explained in *Clark, Code Pleading* 2d ed. 1947 Sec 46, at 289-293. Appellant Sevier is not a very original writer. He pulled the language involving the racketeering counts from Tobacco litigation in an action where the complaint was not challenged - probably because the Judge was moral and not a judicial activists.

[41] The requirements of a short and plain statement of a claim and simple, concise, and direct averments prescribed by the rules have been held to be violated by a pleading that was needlessly long, or a complaint that was highly repetitious, confused, or consists of incomprehensive rambling. *Collier v. First Michigan, Coop. Housing Ass'n*, 274 F. 2d 467 (6th 1960); *Brown v. Knoxville, News-Sentinel,* 41 F.R.D. 283 (Tenn 1966). However what is the proper length and level of clarity for a pleading cannot be defined with any great precision and is largely a matter left for the discretion of the trial court, which will be reversed by the court of appeals if that discretion is abused. *Babb v. Bridgestone/Firestone*, 861 F. Supp. 50 (Tenn 1993).

[42] In *Niles v. Nelson*, 72 F.Supp 2d 13 (N.Y. 1999), the Court accepted a lengthy and rambling complaint because the defendant was able to comprehend the plaintiff's cause of action fully and submit an answer. Here, the Appellees have

anyone likes it or not, the lowly Appellant is entitled the lesser pro-se non-attorney pleading standard, and Appellees want to sue the TNSC Supreme for fraud and corruption, the Appellant will not object.[43] Admittedly, federal courts are far less charitable when one or more amended pleading has been filed with no measure of increased clarity. But that cannot be said in this case when there is a 77 page complaint without footnotes conveniently pending in a racketeering case of first impression. (DE 250). Smelling a railroading agenda in a porn case that could crush the demand side of human trafficking and provoke material Congressional responsiveness is not pleasant.[44] The appropriate response from a normal Magistrate to the amended complaint filed on July 3, 2014 would be leave to replead with instructions. [45]

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understood the cause of action and have provided incredibly comprehensive and robust defenses (DE 13, 49, 51, 67, 112, 114, 117, 125, 201, 194).

[43] The reluctance on the part of the federal courts to dismiss for a deviation from the short and plain statement standard understandably manifests itself most prominently and most frequently when the plaintiff is appearing pro se. *Hughes v. Rowe*, 101 S.Ct. 173, 499 U.S. 5, 66 L.Ed.2d 163 (1980).

[44] In *Tucker v. Stewart*, 72 Fed.Appx. 597 (9th Cir. 2003), the district court gave the plaintiff three opportunities to amend the complaint, provided examples of an acceptable complaint, and provided specific instructions on how to comply with rule 8. The court did not abuse its discretion in dismissing without prejudice when the plaintiff still failed to satisfy rule 8's requirements under those circumstances.

[45] Even when a violation of the short and plain statement requirement results in dismissal of the action, "ordinarily" it will be with leave to replead. This is no

CONCLUSION

When Justice Scalia said "I write separately to call attention to this Court's threat to American democracy" in a different but related sex case, he was talking about Judges like Magistrate Knowles, who pervert the rules to do whatever they want. *Obergefell v. Hodges,* 135 S.Ct. 2584 (June 26, 2015). Reversal is warranted.

Respectfully Submitted,

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ordinary action. Given the declarations that have been filed and the fact that this is a case of first impression that could improve the public health on an international level, Appellant should have permission to replead as many times as necessary for the sake of the 33 declarants who have appeared here. Permission to file an amended complaint complying with rule 8(a)(2) usually is freely given because the federal rules contemplate a decision on the merits rather than a final resolution of the dispute on the basis of technicalities, particularly those relating to pleading. *Tufano v. One Toms Point Lane Corp.*, 64 F.Supp. 2d 119 (1999), affirmed,, 229 F.3d 1136 (2d. Cir. 2000). In some circumstances if a party fails or refuses to file an amended and simpler pleading or does not exercise good faith in purporting to do so, the severe sanction of a dismissal on the merits may be justifiable.When the plaintiffs whose complaints were dismissed for failure to state a claim for relief already had had numerous opportunities to assert their claims, the dismissal would be without leave to amend. *Hutter v. Schrami*, 51 F.R.D 519 (Wis. 1970).

CERTIFICATE OF COMPLIANCE

The Undersigned hereby certifies that this brief complies with the requirements of the type-volume limitations under the F.R.A.P., as it contains 4,828 words, excluding the corporate disclosure statement, table of contents, statement in support of oral argument, any addendum, and certificate of counsel. Certification is based on the word count of word-processing system under in preparing the Appellant brief, Word-Perfect 12.

Chris Sevier

CERTIFICATE OF SERVICE

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/s/Chris Sevier Esq/

CASE NO. 15-5345

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

CHRIS SEVIER,

Plaintiff-Appellant,

v.

GOOGLE INC.; SAMSUNG INTERNATIONAL, INC.; ANDROID; LG; MOTOROLA; XBOX; MICROSOFT CORPORATION; PLANNED PARENTHOOD; DELL, INC.; VERIZON WIRELESS TENNESSEE PARTNERSHIP,

Defendants-Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE

ANSWERING BRIEF OF DEFENDANT-APPELLEE GOOGLE INC.

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CORPORATE DISCLOSURE STATEMENT

Google Inc. ("Google") is a wholly owned subsidiary of Alphabet Inc., a publicly held corporation. There is no publicly owned corporation, not a party to the appeal, that has a financial interest in the outcome.

Dated: April 5, 2016

s/ Eric. P. Schroeder
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STATEMENT REGARDING ORAL ARGUMENT

Google does not believe oral argument is necessary in this *pro se* matter because (a) the dispositive issues have been authoritatively decided; (b) the facts and legal arguments are adequately presented in the briefs and record; and (c) the appeal is frivolous.

STATEMENT REGARDING JURISDICTION

Mr. Sevier's appeal is properly before the Sixth Circuit. He appealed from a final District Court Order dismissing the Complaint under FED. R. CIV. P. 41, for failure to conform with FED. R. CIV. P. 8, and under FED. R. CIV. P. 12(b)(1), for lack of subject matter jurisdiction. *See* Order (*See* RE 235, PageID 16839-45).

Google contends that the Court lacks subject matter jurisdiction because the crux of the Complaint (and the proposed amendments thereto) is "totally implausible, attenuated, unsubstantial, frivolous, devoid of merit, [and] no longer open to discussion." *Id.* at 3 (RE 235, PageID 16841) (quoting *Apple v. Glenn*, 183 F.3d 477, 479 (6th Cir. 1999)); *accord Hagans v. Lavine*, 415 U.S. 528, 536-37 (1974).

INTRODUCTION

Plaintiff Chris Sevier sued Google Inc. ("Google"), several mobile device manufacturers, and other parties because he blames the Defendants for his addiction to pornography. Specifically, Mr. Sevier alleges that Google and its co-defendants manufactured mobile devices that he used to access pornography and claims that these devices should have come equipped with pre-installed content filters to prevent that access. The Complaint does not claim that Google produced any of the pornography or mobile devices that he claims harmed him.

Mr. Sevier's theory and his operative Complaint[1] are frivolous. The District Court properly dismissed the Complaint against all Defendants on two distinct grounds and this Court may also properly affirm on a third.

First, the Court should affirm dismissal as to all Defendants under Rule 12(b)(1) for lack of subject matter jurisdiction. The Complaint does not present any particularized case or controversy that can be decided by a federal court. Instead, the voluminous Complaint is a soapbox from which Mr. Sevier espouses his opinions about various courts and judges, religion and its place in law and social policy, his concerns about the dangers of pornography, and his call for the Court to mandate his preferred social policy by requiring pre-installed content

[1] Mr. Sevier filed several complaints, proposed amended complaints, and motions to amend the complaint. (*See* n. 4, *infra.*, for list). Unless otherwise specified, references to the "Complaint" are to Mr. Sevier's First Amended Complaint, the operative pleading. (RE 13-1, PageID 1008-141).

filters on cell phones. This political polemic simply does not convey subject matter jurisdiction.

Second, this Court should affirm dismissal because the Complaint does not state any plausible claim for relief against Google under Rule 12(b)(6). On appeal, Mr. Sevier clarifies that he asserts a "product liability" claim, but the claim fails for two reasons, one with broad application and one specific to Google.

Generally, Mr. Sevier's product liability theory fails because manufacturers cannot be held liable for providing a means to access third-party content, words, or images that a plaintiff alleges are harmful. *See James v. Meow Media, Inc.*, 300 F.3d 683, 701 (6th Cir. 2002) (video game manufacturer could not be held liable for ideas and images contained in video games). This fundamental rule of law dooms Mr. Sevier's Complaint, and his appeal.

Specifically, Mr. Sevier's claim fails because he did not buy a Google mobile device. Instead, he claims that he bought a phone from Motorola and that Google owned Motorola. But, Google cannot be held vicariously liable for Motorola's phones, legally or factually, as Google did not own Motorola at the operative time.

Further, the Complaint named "Android"—an operating system developed by Google, not an entity—as a Defendant. If Mr. Sevier is claiming that Google is liable for his use of this operating system, any such claim is barred by Section 230

of the Communications Decency Act. The statute immunizes computer service providers from liability for providing access to or hosting third-party content. 47 U.S.C. § 230(c)(1) (2014); *Jones v. Dirty World Entm't Recordings LLC,* 755 F.3d 398, 406-09 (6th Cir. 2014).

Third, the District Court also properly dismissed Mr. Sevier's 200-plus page Complaint under FED. R. CIV. P. 41 for violating FED. R. CIV. P. 8. (On this point, Google incorporates its co-Defendants' briefs by reference.)

Finally, Mr. Sevier's numerous attempts to re-plead his Complaint were properly denied. These complaints were all futile, as they are based on the same meritless legal theories that the Court rejected in the Complaint at issue.

There was no legal error below. Dismissal should be affirmed.

COUNTERSTATEMENT OF ISSUES FOR REVIEW

1. Should this Court affirm dismissal of the First Amended Complaint pursuant to FED. R. CIV. P. 12(b)(1)?

2. In the alternative, should this Court affirm dismissal because the Complaint does not state a plausible claim for relief under FED. R. CIV. P. 12(b)(6)?

3. Should this Court affirm dismissal for failure to comply with FED. R. CIV. P. 8?

4. Did the District Court properly deny Mr. Sevier's motions to further amend the First Amended Complaint?

COUNTERSTATEMENT OF CASE

A. The Complaint.

The Complaint and Mr. Sevier's multiple proposed amendments share the same core theory: judgment should be entered against Google and the other defendants because they allegedly provided Mr. Sevier mobile devices through which Mr. Sevier chose to access and view pornography.

Specifically, the Complaint alleges that Mr. Sevier purchased telephones, with "preinstalled software designed to allow the user to connect automatically to the internet," from "Samsung, Google, Android, Blackberry" and others. *E.g.*, Compl. ¶¶ 102-03 (RE 13-1, PageID 1087). It then alleges that Mr. Sevier used the telephones to access the Internet, where he found and viewed pornography, and that he then became addicted to pornography. *Id.* at ¶¶ 115-26 (RE 13-1, PageID 1090-92).

The Complaint acknowledges that Google did not create the pornography that Mr. Sevier viewed. *E.g.*, Compl. ¶¶ 117-18 (RE 13-1, PageID 1090). Instead, it claims that Google and others should have warned him that he "could encounter pornographic content" through mobile devices and should have provided

"preinstalled software that automatically opted out of interacting with … obscene pornographic content." *Id.* at ¶¶ 103-07, 117 (RE 13-1, PageID 1087-88, 1090).

The Complaint asserts twenty-one (21) claims for relief, identified below,[2] and requests a series of injunctions that would require Google and others to pre-install content filters on all mobile telephones, "force the Defendants to send out a filtering system updates as part of their next operations system," and require that Defendants "keep a list of every person who wants to have the filter deactivated." Compl. ¶¶ 245-246 (RE 13-1, PageID 1125-26). Mr. Sevier also seeks actual monetary and punitive damages, to be paid to organizations of his choosing.

B. Mr. Sevier's Claims Against Google.

More than eighteen months after the underlying case filed, it remains unclear why Google is named in this action. The Complaint does not make any specific

[2] The Complaint includes the following counts: (1) Fraud; (2) Products Liability (Defective Design, Failure to Warn); (3) Products Liability (Strict Liability, Defective Design, Failure to Warn, T.C.A. § 29-28-101, *et seq.*); (4) Negligence Products Liability (Defective Design, Failure to Warn); (5) Breach of Implied Warranties (T.C.A. § 47-2-314); (6) Unfair and Deceptive Trade Practices (T.C.A. § 47-18-101, *et seq.*); (7) Res Ipsa Loquitor Relating to Personal Injury; (8) Intentional Infliction of Emotional Distress; (9) Tortious Interference; (10) Negligent Infliction of Emotional Distress; (11) Outrageous Conduct; (12) Civil Conspiracy; (13) Breach of the Duty of Good Faith and Fair Dealing; (14) Federal Violation of 15 U.S.C. §§ 1051, *et seq.* Lanham Act for False Advertising; (15) False Advertising (Tennessee Common Law); [Unnumbered] Punitive Damages; (16) False Advertising (Tennessee Common Law); (17) Negligent Misrepresentations; (18) Due Process Violation; (19) First Amendment – Free Exercise – Violation in Kind; and [Unnumbered] Joint and Severally Liable. Compl. ¶¶ 140-245 (RE 13-1, PageID 1101-1125).

accusation against Google or, other than "Android," identify any product manufactured by Google. *E.g.*, Compl. ¶¶ 74, 102, 223 (RE 13-1, PageID 1072, 1087, 1119-20) (alleging only purchase of a "filterless product" manufactured by Google and/or Android). Google did not manufacture or sell Mr. Sevier the cell phone(s) he used to access pornography. In subsequent motions, however, Mr. Sevier clarified that he sued Google because it "owned Motorola" and he had purchased a Motorola phone. *See* Proposed Am. Compl. ¶¶ 130, 134, n.201 (RE 189, PageID 13815-16, 13818).

Further, while "Android," an open source Google operating system for many mobile devices, is listed as a defendant in this action, Mr. Sevier later stated that he never intended to name Android as a defendant. Proposed Am. Compl. ¶ 139 (RE 189, PageID 13819). Android is not a separate entity capable of being sued and was in fact never served.

C. Procedural Background.

The original complaint, titled "Original Complaint Porn Wars," was assigned to the Magistrate Court, with oversight by the District Court. Mr. Sevier filed a First Amended Complaint, which was served on Google.[3]

[3] This First Amended Complaint was later allowed *nunc pro tunc*, as it was filed before service of the original complaint on the Defendants. Order (RE 208, PageID 15982-84).

Google moved to dismiss the First Amended Complaint on September 17, 2014, pursuant to FED. R. CIV. P. 12(b)(1) and 12(b)(6). Google's Memorandum in Support of Motion to Dismiss ("Google Br.") (RE 118, PageID 4639-88); *see also, e.g.*, Verizon's Memorandum in Support of Motion to Dismiss (RE 52, PageID 2344-2372). Briefing was completed by October 21, 2014. *See* Google's Reply (RE 133, PageID 5887-96). Thereafter, Mr. Sevier filed or sought leave to file multiple iterations of the same Complaint.[4]

In a Report and Recommendation issued February 20, 2015, the Magistrate Court recommended dismissing the Complaint under FED. R. CIV. P. 41 (for failure to comply with Rule 8) and 12(b)(1). (RE 210, PageID 15989-96; RE 211, PageID 15997-98). The Magistrate Court denied Mr. Sevier's various motions to amend as untimely, futile, and likely to prejudice the Defendants, who had already moved to

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[4] Mr. Sevier filed the following motions and proposed amendments:
- Original Complaint Porn Wars, on June 17, 2014 (RE 1, PageID 1-159);
- Notice of Filing First Amended Complaint, with proposed First Amended Complaint, on July 3, 2014 (RE 13, PageID 1004-07; RE 13-1, PageID 1008-1141);
- Motion to Amend the Complaint and Request to Stay the Defendants' Moot Motions to Dismiss Until After an Amended Complaint is Provided, on November 27, 2014, without proposed amendment (RE 145, PageID 6648-49);
- Motion to Supplement the First Motion to Amend the Complaint or Alternatively Second Motion to Amend, on January 19, 2015 (RE 190, PageID 13922-31);
- Motion to File a Second Amended Complaint, on March 6, 2015 (RE 221, PageID 16133-36); and
- Motion to File a Second and Final Amended Complaint, on May 2, 2015 (RE 248, PageID 16894-97).

dismiss the operative Complaint. (RE 209, PageID 15985-88; *adopted by* RE 235, PageID 16839-45). By Order dated March 16, 2015, the District Court adopted the Report and Recommendation and dismissed the Complaint with prejudice in its entirety. (RE 235, PageID 16839-45).[5]

D. Mr. Sevier's Argument on Appeal.

On appeal, Mr. Sevier abandons all but his product liability claim. Appellant's Brief ("Sevier Br.") at 20, n.9 (App. Doc. 43-1) ("This is a lawsuit regarding the bad design of 'physical products,' not 'interactive websites' and 'computer services.'"). Mr. Sevier further argues that he should have been allowed to re-plead his Complaint. *Id.* at 33-42. Thus, if granted amendment, Mr. Sevier intends to proceed with an amended complaint that is perhaps shorter in length but depends on the same product liability theory discussed herein.

SUMMARY OF THE ARGUMENT

The District Court properly dismissed the Complaint pursuant to FED. R. CIV. P. 12(b)(1); this Court may also affirm dismissal pursuant to FED. R. CIV. P. 12(b)(6); and it may properly affirm dismissal under FED. R. CIV. P. 8 and 41.

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[5] The Magistrate Court recommended granting Verizon's and Dell's Motions to Dismiss, pursuant to FED. R. CIV. P. 41 (for failure to comply with Rule 8) and FED. R. CIV. P. 12(b)(1) but did not issue a Report and Recommendation as to Google's Motion to Dismiss. (RE 210, 211). The District Court's Order extended this reasoning and dismissed the Complaint in its entirety against all Defendants. (RE 235).

Mr. Sevier's Complaint seeks to hold all mobile device manufacturers (*i.e.*, cell phone makers) liable for his pornography addiction and asks the Court to require pre-installed content filters on all such devices, as he believes content filters might have helped him avoid his addiction. This claim for relief does not present a legal controversy. It is instead an excuse to write a political polemic that is "so attenuated and unsubstantial" that it fails to convey subject matter jurisdiction on the Court. *Hagans*, 415 U.S. at 536–37; *see* FED. R. CIV. P. 12(b)(1).

The Complaint also does not allege any plausible claim against Google, and therefore, dismissal may be affirmed under FED. R. CIV. P. 12(b)(6). First, as a general matter, Mr. Sevier's theory that mobile devices may be "defective" for product liability purposes because they allowed him to access allegedly harmful content (pornography) is foreclosed by the Sixth Circuit's decision in *James v. Meow Media, Inc.*, which rejected a product liability claim against a video game manufacturer based on the games' content. 300 F.3d at 683. Second, Mr. Sevier claims he sued Google because he used a Motorola phone and Google owned that company. Google, however, cannot be held vicariously liable for Motorola's products under Tennessee law and—even more—did not own Motorola during the operative time period. Third, to the extent Mr. Sevier wants to hold Google liable

because he used Google's Android software, his claims are barred by Section 230 of the Communications Decency Act.

Dismissal may also be affirmed because the Complaint violated the "short and plain" pleading requirements of Rule 8 and was therefore properly dismissed under Rule 41. On this point, Google relies on its co-defendants' arguments, which are incorporated by reference herein.

Finally, the District Court properly rejected Mr. Sevier's multiple late attempts to amend the Complaint, as the proposed amendments were untimely and would have been futile.

ARGUMENT

I. STANDARD OF REVIEW.

There are two applicable standards of review in this case.

First, the Court of Appeals conducts a *de novo* review of the District Court's dismissal pursuant to FED. R. CIV. P. 12(b)(1) and 12(b)(6). *Louisiana Sch. Emps.' Ret. Sys. v. Ernst & Young, LLP*, 622 F.3d 471, 477 (6th Cir. 2010); *Dixon v. Clem*, 492 F.3d 665, 673 (6th Cir. 2007) (quoting *Abercrombie & Fitch Stores, Inc. v. American Eagle Outfitters, Inc.*, 280 F.3d 619, 629 (6th Cir. 2002)). In reviewing dismissal pursuant to Rule 12, the Court of Appeals "may affirm [the lower court] on any grounds supported by the record even if different from the reasons of the district court." *Louisiana Sch. Emps.*, 622 F.3d at 477. As explained below,

Google therefore submits that affirmance of dismissal is appropriate under either Rule 12(b)(1) or 12(b)(6), as Google moved for dismissal under both Rules in the District Court below.

Second, the Court of Appeals reviews the District Court's Orders (1) dismissing the Complaint pursuant to FED. R. CIV. P. 41 and (2) denying Mr. Sevier's motions to amend under the "abuse of discretion" standard. *Knoll v. American Tel. & Tel. Co.*, 176 F.3d 359, 363 (6th Cir. 1999) (reversing Rule 41 dismissal "only if we have a definite and firm conviction that the trial court committed a clear error of judgment"); *Crawford v. Roane*, 53 F.3d 750, 753 (6th Cir. 1995) ("We review the district court's denial of a motion for leave to amend a complaint under an abuse of discretion standard.").

II. THE COMPLAINT WAS PROPERLY DISMISSED UNDER FED. R. CIV. P. 12(B)(1) AS TOO UNSUBSTANTIAL TO CONVEY SUBJECT MATTER JURISDICTION.

"[F]ederal courts are without power to entertain claims … if they are 'so attenuated and unsubstantial as to be absolutely devoid of merit.'" *Hagans*, 415 U.S. at 536-37 (quoting *Newburyport Water Co. v. City of Newburyport*, 193 U.S. 561, 579 (1904)); *see also Merkobrad v. Weaver*, 57 F. App'x 257, 258 (6th Cir. 2003) (affirming dismissal of "largely illegible" complaint that "lack[ed] any arguable basis in fact or law"). A court assessing a claim for lack of subject matter jurisdiction "must ask whether there is any legal substance to the position the

plaintiff is presenting." *Southpark Square Ltd. v. City of Jackson*, 565 F.2d 338, 341-43 (5th Cir. 1977). If the claim lacks a "foundation of plausibility," it is unsubstantial, and subject matter jurisdiction does not exist. *Id.*

Mr. Sevier's claims against Google all rely on a conspiracy theory in which Google, certain cell phone manufactures, and other named and un-named parties such as Planned Parenthood entered a "porn compact" to foist pornography on the public by not preventing access to such material on mobile devices. As a result of this conspiracy, per the Complaint, Mr. Sevier became addicted to pornography, because he chose to use a mobile device to access the Internet. The Complaint cites no specific facts to support this conspiracy among the co-defendants; Mr. Sevier treats the supposed conspiracy as self-evident.

As relief, Mr. Sevier does not seek redress for his own alleged injury but instead asks that the Court impose an injunction and require Google, *et al.*, to impose content filters on mobile devices (regardless of whether the Defendants manufacture such devices). *See* Compl. ¶¶ 65, 131, 245-46 (RE 13-1, PageID 1065, 1095, 1125-27) (requesting injunctions requiring content filters on cell phones and compelling marriage legislation). The Complaint admits that Mr. Sevier tried and failed to accomplish this result through legislative means and that Mr. Sevier only seeks the Court's assistance because Congress has not acted in

accordance with his own policy goals.[6] As such, the Complaint largely proselytizes about the dangers of pornography and seeks broad injunctive relief, rather than identifying any specific controversy or injury the Court could resolve. *E.g.*, *Id.* at ¶¶ 16-17, 27, 52 (RE 13-1, PageID 1022-23, 1032-33, 1055) ("I want the Governor and the Court to demonstrate leadership and require all device makers to sell their products with preinstalled filters that make reasonable efforts to automatically block porn.").

In short, Mr. Sevier's Complaint is nothing more than a "bizarre conspiracy theory," which asserts "essentially fictitious" legal claims and asks the Court to act as a legislature rather than an Article III court. *See, e.g., Best v. Kelly*, 39 F.3d 328, 330 (D.C. Cir. 1994) (dismissal under 12(b)(1) for lack of subject matter jurisdiction appropriate "when the complaint is patently insubstantial" or "essentially fictitious"). It does not present a serious legal complaint identifying a cognizable injury to any specific plaintiff as a result of actions by a particular defendant. Mr. Sevier cannot hold the entire mobile phone industry, plus additional parties like Google, liable for providing Mr. Sevier a mobile device which allowed him to access pornography on the Internet, nor can he hold Google and others liable for alleged injuries to society at large.

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[6] For example, Mr. Sevier states that his goal in this litigation is to prompt executive or legislative action regarding pornography and, ideally, convince Defendants to assist him in this effort. Sevier Br. at 25 (App. Doc. 43-1); Compl. ¶¶ 14, 38 (RE 13-1, PageID 1020, 1041-42).

The Court should affirm the District Court's dismissal of the Complaint under FED. R. CIV. P. 12(b)(1) for lack of subject matter jurisdiction. *See, e.g., Russell v. Garrard*, 83 F. App'x 781, 782 (6th Cir. 2003) (affirming dismissal under Rule 12(b)(1); ruling "the district court need not afford the plaintiff an opportunity to amend the complaint, especially where the district court has determined that it lacks subject matter jurisdiction over the action").

III. THE COMPLAINT DOES NOT STATE A PLAUSIBLE CLAIM AGAINST GOOGLE ON WHICH RELIEF CAN BE GRANTED.

In the alternative, this Court can also affirm dismissal under FED. R. CIV. P. 12(b)(6) because the Complaint does not allege any plausible claim for relief against Google. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). First, Sixth Circuit precedent bars product liability claims based on allegedly harmful content and against devices providing access to the same. Second, Google cannot be held liable based on Sevier's allegation that he bought a Motorola phone. Third, Google and/or "Android" are statutorily immune from liability under Section 230 of the Communications Decency Act for any claim based on Google software.

A. Sixth Circuit Law Forecloses The Complaint's Products Liability Theory.

Mr. Sevier's appeal clarifies that he proceeds solely on his "product liability" cause of action. Sevier Br. at 20, n.9 (App. Doc. 43-1). This admission bars his Complaint because product liability actions may not be based on words

and images or alleged against a device simply because it provides access to such words and images.

The Complaint is based on the allegedly harmful effects of pornography. It does not allege that Mr. Sevier suffered injury due to a defective Google product, *i.e.*, that any Google product malfunctioned. To the contrary, Mr. Sevier claims that each cell phone he used worked exactly as intended, allowing him to access the Internet, presumably through a web browser. Once on the web, however, Mr. Sevier found and viewed content that he later deemed objectionable and harmful, and now he seeks to hold Google and others liable for the alleged harm.

This theory does not support a product liability theory under the law of this Circuit or any other. Mobile device manufacturers cannot be held liable because their products provide a means to access allegedly harmful content, *i.e.*, words, images, or ideas, created by third parties. *Meow Media, Inc.*, 300 F.3d at 700-01; *see also Winter v. G.P. Putnam's Sons*, 938 F.2d 1033, 1036 (9th Cir. 1991) (rejecting "defective" product liability claim against publisher based on content of book); *Sanders v. Acclaim Entm't, Inc.*, 188 F. Supp. 2d 1264, 1277-79 (D. Colo. 2002) (video game and movie producers could not be held liable under product liability theory for harm allegedly caused by the violent content of games and movies they produced); *cf. Lewin v. McCreight*, 655 F. Supp. 282, 283-84 (E.D. Mich. 1987) (Michigan and Illinois law do not recognize product liability claims or

claim that book publishers had a "duty to warn" of information supplied by third-party authors).

First, mobile devices, in "the sense of their communicative content," are not tangible products, as required to state a claim under Tennessee law. *Meow Media, Inc.*, 300 F.3d at 701. Tennessee law defines "product" as "any tangible object or goods produced" and generally follows the Restatement (3d) of Torts on product liability issues. Tenn. Code Ann. § 29-28-102; *see also Davis v. Komatsu Am. Indus. Corp.*, 42 S.W.3d 34, 43 (Tenn. 2001) (applying Restatement (3d)). Under the Restatement, a tangible medium of expression, such as a book, cannot be held liable for the information that it conveys. RESTATEMENT (THIRD) OF TORTS: PROD. LIAB. § 19, cmt. d (1998).[7] As stated therein:

> Although a tangible medium such as a book, itself clearly a product, delivers the information, the plaintiff's grievance in such cases is with the information, not with the tangible medium. Most courts, expressing concern that imposing strict liability for the dissemination of false and defective information would significantly impinge on free speech have, appropriately, refused to impose strict products liability in these cases.

Simply put, under Tennessee law a product liability claim can only be sustained when the product itself causes the injury claimed by the plaintiff. *See generally, Strayhorn v. Wyeth Pharm., Inc.*, 737 F.3d 378, 401, 404 (6th Cir. 2013) (discussing Tennessee Products Liability Act; manufacturer cannot be held liable

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[7] *See also id.* at Reporter's Note, cmt. d (1998) (citing cases).

> Certainly if a video cassette exploded and injured its user, we would hold it a "product" and its producer strictly liable for the user's physical damages. In this case, however, [plaintiff] is arguing that the words and images purveyed on the tangible cassettes, cartridges, and perhaps even the electrical pulses through the internet, caused Carneal to snap and to effect the deaths of the victims. When dealing with ideas and images, courts have been willing to separate the sense in which the tangible containers of those ideas are products from their communicative element for purposes of strict liability. [cit.] We find these decisions well reasoned. The video game cartridges, movie cassette, and internet transmissions are not sufficiently "tangible" to constitute products in the sense of their communicative content.

Id. (citing *Winter*, 938 F.2d at 1036); *Jones v. J.B. Lippincott Co.*, 694 F. Supp. 1216, 1217-18 (D. Md. 1988)); *see also Acclaim Entm't, Inc.*, 188 F. Supp. 2d at 1277-79 ("Products liability law is geared to the tangible world").

Similarly, in *Winter v. G.P. Putnam's Sons*, the Ninth Circuit ruled that a book publisher could not be liable under a product liability theory because its book inaccurately described a deadly species of mushrooms. In explaining why product liability claims do not extend to allegations that a product contains harmful words, ideas, or images, the Ninth Circuit stated:

> The purposes served by products liability law also are focused on the tangible world and do not take into consideration the unique characteristics of ideas and expression....
>
> Although there is always some appeal to the involuntary spreading of costs of injuries in any area, the costs in any comprehensive cost/benefit analysis would be quite different were strict liability concepts applied to words and ideas. We place a high priority on the unfettered exchange of ideas. We accept the risk that words and ideas have wings we cannot clip and which carry them we know not where. The threat of liability without fault (financial responsibility for our

> words and ideas in the absence of fault or a special undertaking or responsibility) could seriously inhibit those who wish to share thoughts and theories.

Winter, 938 F.2d at 1036 (cit. omit.) ("Given these considerations, we decline to expand products liability law to embrace the ideas and expression in a book. We know of no court that has chosen the path to which the plaintiffs point.").

Mr. Sevier asks for a strict liability regime for the images viewed via mobile devices. The Complaint therefore fails on two levels: (1) he cannot base a product liability theory on content he alleges is harmful; and (2) he cannot plausibly assert a product liability claim against a mobile device because it allowed him to view said content. Dismissal should be affirmed under FED. R. CIV. P. 12(b)(6). *See Meow Media, Inc.*, 300 F.3d at 700-01.

B. Google Cannot Be Held Liable Because Mr. Sevier Purchased A Motorola Phone.

The claims against Google also fail because Mr. Sevier improperly attempts to hold Google vicariously liable for a Motorola cell phone. Mr. Sevier asserted a claim against Google because he bought a Motorola phone and he believed Google owned Motorola when he filed the Complaint. Proposed Am. Compl. at ¶¶ 130, 134, n.201 (RE 189, PageID 13815-16, 13818).

Even if true, the Complaint's contention that Google "owns" Motorola would not be enough to state a claim against Google for vicarious liability. *See Stein v. Sparks*, No. 1:08-CV-142, 2008 WL 4356964, at *3 (E.D. Tenn. Sept. 17,

2008) (allegation of ownership alone was insufficient to state a vicarious liability basis for claim). Under Tennessee law, a parent corporation cannot be held liable for the actions of its subsidiaries, except in very rare circumstances. *See Southeast Tex. Inns, Inc. v. Prime Hosp. Corp.*, 462 F.3d 666, 674-76 (6th Cir. 2006) (requiring parent corporation's "complete dominion" over subsidiary with "respect to the transaction under attack" before allowing vicarious liability).

The rare circumstances needed to find Google vicariously liable for Mr. Sevier's use of a Motorola phone are not alleged in the Complaint (nor could they be). For example, the Complaint does not allege that Google had any involvement in the design or manufacture of Motorola phones, nor does the Complaint allege that Google so controlled Motorola that Motorola "had no separate mind, will or existence of its own." *Id.* at 673, n.12; *cf. Schaffer by Schaffer v. A.O. Smith Harvestore Prods., Inc.*, 74 F.3d 722, 731 (6th Cir. 1996).

Even if Mr. Sevier had stated facts giving rise to a plausible basis for vicarious liability, his facts are just wrong: Google did not own Motorola in 2011 and early 2012, when Mr. Sevier alleges he purchased a Motorola phone. *See* Resp. to Third Motion to Amend, Ex. A (RE 198, PageID 15458-64) (clarifying that Google did not own Motorola during relevant time periods).

In sum, the Complaint does not plausibly allege that Google is vicariously liable for Motorola's telephones. Therefore, even if the Complaint stated a valid product liability claim, it does not plausibly state such a claim against Google.

C. Section 230 Of The Communications Decency Act Bars Any Related Software Claims Against Google.

Although Mr. Sevier has repeatedly stated that his claims are only based on defective hardware (*i.e.*, mobile devices), he still names Android (which is software, and not a company) as a defendant and essentially treats the all of the Defendants as if they were software providers or publishers of pornography. Accordingly, out of an abundance of caution, Google sets forth herein the basis of its immunity under Section 230 of the Communications Decency Act ("CDA"). 47 U.S.C. § 230.

1. Section 230 Immunity Is Broadly Construed To Protect Companies Such As Google From Being Held Liable When They Provide Users Access To Third-Party Content.

Congress adopted the CDA to protect Internet and computer service providers from liability for hosting or providing access to third party content that a plaintiff finds objectionable. 47 U.S.C. § 230(c)(1) ("No provider or user of an interactive computer service shall be treated as a publisher or speaker of any information provided by another information content provider.").

The CDA provides immunity from suit in order to encourage free speech and use of the Internet without fear. 47 U.S.C. § 230(c)(3) ("No cause of action

may be brought and no liability may be imposed under any State or local law that is inconsistent with this section."). As stated by the Fourth Circuit, CDA immunity "is effectively lost if a case is erroneously permitted to go to trial." *Nemet Chevrolet, Ltd. v. Consumeraffairs.com, Inc.*, 591 F.3d 250, 254-55 (4th Cir. 2009) (courts "aim to resolve the question of § 230 immunity at the earliest possible stage of the case"). And as explained by the Ninth Circuit:

> Congress wanted to encourage the unfettered and unregulated development of free speech on the Internet, and to promote the development of e-commerce.... Making interactive computer services and their users liable for the speech of third parties would severely restrict the information available on the Internet. Section 230 therefore sought to prevent lawsuits from shutting down websites and other services on the Internet.

Batzel v. Smith, 333 F.3d 1018, 1027-28 (9th Cir. 2003); *see also Jones,* 755 F.3d at 406-09; *O'Kroley v. Fastcase Inc.*, Case No. 3-13-0780, 2014 WL 2881526, at *2 (M.D. Tenn. June 25, 2014) (Campbell, Dist. Ct. J.) (granting Google immunity under Section 230; dismissing claims against Google) (on appeal).

"[C]ourts have construed the immunity provisions in § 230 broadly." *Jones*, 755 F.3d at 406-09. This immunity protects content accessed not only through Google's search engine, www.google.com, but also through operating systems like Android, which provide the user with a means to view the Internet. 47 U.S.C. § 230(f) (defining the "interactive computer service" entitled to immunity as any "service or system that provides access to the Internet"); *cf. Zeran v. America*

Online, Inc., 129 F.3d 327, 330 (4th Cir. 1997) ("The provision [§ 230] precludes courts from entertaining claims that would place a computer service provider in a publisher's role.").

Specifically, Section 230 immunity bars claims where "(1) the defendant asserting immunity is an interactive computer service provider, (2) the particular information at issue was provided by another information content provider, and (3) the claim seeks to treat the defendant as a publisher or speaker of that information." *Jones*, 755 F.3d at 408. Each element is satisfied in this case.

2. "Android" Is An Interactive Computer Service.

As to the first element, an "interactive computer service" is "any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server[.]" 47 U.S.C. § 230(f)(2). Courts have repeatedly ruled that Google is an interactive computer service provider. *E.g., O'Kroley*, 2014 WL 2881526, at *2; *Mmubango v. Google, Inc.*, Civ. Act. No. 12–1300, 2013 WL 664231, at *2 (E.D. Pa. Feb. 22, 2013) (listing cases; "[A] website such as Google fits the definition of an interactive computer service provider"); *Parker v. Google, Inc.*, 422 F. Supp. 2d 492, 501 (E.D. Pa. 2006) (granting Google Section 230 immunity where its search engine "archived, cached, or simply provided access to content that was created by a third party"), *aff'd*, 242 F. App'x 833 (3d Cir. 2007). Courts have also recognized that services such as

America Online, Inc. ("AOL"), which provide software used to access the Internet, are entitled to immunity if they were used to access websites that held objectionable content. *Cf. Jones,* 755 F.3d at 407, n. 2 (noting that interactive computer services "include broadband providers, hosting companies, and website operators"); *Blumenthal v. Drudge*, 992 F. Supp. 44, 49-50 (D.D.C. 1998) (ruling the online service provider AOL qualified as an interactive computer service under Section 230).

Google, as the producer of Android software, and Android itself, qualify as "interactive computer services." Indeed, Mr. Sevier acknowledges that Android is "a service or system" which "provides or enables computer access," and specifically "access to the Internet." Compl. ¶¶ 103, 115-125 (RE 13-1, PageID 1087-88, 1090-92); 47 U.S.C. § 230(f)(2); *see also Parker*, 422 F. Supp. 2d at 501 ("[T]here is no doubt that Google qualifies as an 'interactive computer service.'"); *Nieman v. Versuslaw, Inc.*, No. 12-3104, 2012 WL 3201935, at *4 (C.D. Ill. June 13, 2012) (definition of "interactive computer service … clearly encompasses search engines"); *Mmubango*, 2013 WL 664231, at *2 ("[A] website such as Google fits the definition of an interactive computer service provider.").

3. "Android" Is Not The Information Content Provider.

As to the second element, Section 230 bars Mr. Sevier's claims unless Google and/or Android is the "information content provider" of the pornography to

which he became addicted. *Jones*, 755 F.3d at 408. An "information content provider" is "any person or entity that is responsible, in whole or in part, for the creation or development of information provided through the Internet or any other interactive computer service." 47 U.S.C. § 230(f)(3). If "a website displays content that is created entirely by third parties, then it is only a service provider with respect to that content – and thus is immune from claims predicated on that content." *Jones*, 755 F.3d at 410-11.

Here, Mr. Sevier admits that neither Google, nor its Android software, was the "information content provider" of the pornography he claims harmed him. *E.g.*, Compl. ¶¶ 38, 68, 220 (RE 13-1, PageID 1041-42, 1068, 1118) (acknowledging that "pornographers" are the "content providers"). Specifically the Complaint admits that neither Google nor Android created, developed, or produced the allegedly objectionable content. *Id.* In fact, the Complaint alleges that third-party producers provided this content and "tricked" him into viewing it on their websites. *Id.* at ¶¶ 64, 113, 117, 225 (RE 13-1, PageID 1064-65, 1089-90, 1120-21). Thus, as a matter of law, neither Google nor its Android software is the "information content provider" for the pornography Mr. Sevier viewed, as Google is not "responsible for what makes the displayed content allegedly unlawful." *See Jones,* 755 F.3d at 410-11.

4. The Complaint Seeks To Hold Google Liable As The Publisher Of The Pornography Mr. Sevier Claims Harmed Him.

As to the third element, as discussed above, the basis of Mr. Sevier's claims is that Google should be held liable because its products allowed him to view third party pornographic content. But by trying to hold Google (through its Android software or otherwise) liable for injuries allegedly caused by pornography, the Complaint seeks to hold Google liable as the publisher of such pornography. That is precisely what Section 230 forbids. *See Klayman v. Zuckerberg*, 753 F.3d 1354, 1359 (D.C. Cir. 2014) (explaining that "the very essence of publishing is making the decision whether to print or retract a given piece of content"); *Barnes v. Yahoo!, Inc.*, 570 F.3d 1096, 1105-06 (9th Cir. 2009) ("[P]ublication involves reviewing, editing, and deciding whether to publish or to withdraw from publication third-party content"); *Zeran*, 129 F.3d at 330 ("[L]awsuits seeking to hold a service provider liable for its exercise of a publisher's traditional editorial functions—such as deciding whether to publish, withdraw, postpone or alter content—are barred").

In sum, Section 230 of the CDA bars any claims based on Mr. Sevier's alleged use of Google's Android or other software to view pornography, and Google is immune from suit from any such claim.

D. To The Extent Mr. Sevier Has Not Abandoned Claims Other Than His Product Liability Theory, Those Claims Are Also Barred by FED. R. CIV. P. 12(b).

On appeal, Mr. Sevier addresses his product liability claims and no others. He has therefore abandoned these other claims.[9] *Hih v. Lynch*, 812 F.3d 551, 556 (6th Cir. 2016) ("An appellant abandons issues not raised and argued in his initial brief on appeal."). To the extent, however, he has not waived any other claims, the dismissal of those claims should be affirmed under FED. R. CIV. P. 12(b)(1) or FED. R. CIV. P. 12(b)(6), as the Complaint does not "contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face." *Iqbal*, 556 U.S. at 678. Specifically, the Complaint must "plead[] factual content"—more than "threadbare recitals of the elements" or "conclusory statements"—that "allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* Mr. Sevier has not done so.

Google's Motion to Dismiss lists the elements missing for each cause of action, but across the board, Mr. Sevier's Complaint relies on conjecture and conclusions, rather than factual allegations operative to state a claim. *See* Google Br. (RE 118, PageID 4639-88). Therefore, the dismissal of any claims not waived on appeal may also be affirmed under Rule 12(b)(6).

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[9] Specifically, Mr. Sevier has waived Count One (Fraud), Counts Five (Breach of Implied Warranty) through Nineteen (First Amendment), and the two unnumbered counts. *See* n.2, *supra.*

IV. GOOGLE INCORPORATES THE CO-DEFENDANTS' ARGUMENTS FOR DISMISSAL UNDER FED. R. CIV. P. 8.

The District Court properly exercised its discretion in dismissing Mr. Sevier's Complaint, pursuant to FED. R. CIV. P. 41, for violating the basic pleading requirements of FED. R. CIV. P. 8. On this point, Google incorporates its co-defendants' appellate briefs.

V. THE DISTRICT COURT PROPERLY DENIED MR. SEVIER'S ATTEMPTS TO AMEND THE COMPLAINT.

Finally, the District Court did not abuse its discretion in rejecting Mr. Sevier's second, third, fourth, and fifth attempts to amend his Complaint, because the motions to amend were untimely, prejudicial to Defendants, and futile.

A. Legal Standard Applicable To Multiple Motions To Amend.

Plaintiffs are allowed to amend "as of right" within twenty-one days of service of the Complaint. FED. R. CIV. P. 15(a)(1); *Jackson v. WCM Mortg. Corp.*, No. 2:12-CV-02914-JPM, 2013 WL 3967110, at *3 (W.D. Tenn. July 31, 2013) ("After a responsive pleading is served, the right to amend as a matter of course is now eliminated after twenty-one days…"); *see generally* 3 JAMES WM. MOORE ET AL., MOORE'S FEDERAL PRACTICE § 15.12 (3d ed. 2014) (Rule 12 motion to dismiss triggers running of twenty-one day deadline). Beyond that time, a plaintiff must obtain the Court's permission.

While federal courts "should freely give leave when justice so requires," FED. R. CIV. P. 15, denial is appropriate "if the amendment is brought in bad faith, for dilatory purposes, results in undue delay or prejudice to the opposing party, or would be futile." *Crawford*, 53 F.3d at 753; *see also Yuhasz v. Brush Wellman, Inc.*, 341 F.3d 559, 569 (6th Cir. 2003) (citing *Foman v. Davis*, 371 U.S. 178, 182 (1962)); *Kottmyer v. Maas*, 436 F.3d 684, 692 (6th Cir. 2006) (same).

A proposed amendment is futile when it merely restates the same facts or theory in different terms, fails to plead with particularity the specific elements required, or relies on claims that are frivolous, such that no additional facts could cure the deficiency. *E.g.*, *Crawford*, 53 F.3d at 753 (affirming denial of motion to amend where proposed complaint relied on same flawed theory of standing as original); *Kottmyer*, 436 F.3d at 692 (affirming denial where newly-pleaded facts "do nothing to further…[plaintiffs'] claims"); *Sinay v. Lamson & Sessions Co.*, 948 F.2d 1037, 1041 (6th Cir. 1991) (affirming denial where proposed amendment would not survive Rule 12(b)(6) challenge).

B. The Motions To Amend Were Untimely, Prejudicial, And Futile.

The District Court granted Mr. Sevier one amendment as of right, adopting the First Amended Complaint, which had been filed within a month of the Original Complaint and prior to service on all Defendants. Magistrate's Order (RE 208,

PageID 15982-84).[10] Only after Google and its co-defendants filed and fully briefed motions to dismiss did Mr. Sevier seek further amendment, filing four motions to amend over the next few months. *See* Second Motion to Amend (RE 145, PageID 6648-49); Third Motion to Amend (RE 190, PageID 13922-31); Fourth Motion to Amend (RE 221, PageID 16133-36); Fifth Motion to Amend (RE 248, PageID 16894-97). These motions asked to "refine" or "clean up" the Complaint, add claims, or add defendants, but none of the proposed amendments changed Mr. Sevier's central theory that mobile device manufacturers should be held liable because the devices did not preemptively prevent him from accessing pornography. *E.g.*, Memorandum to Second Motion to Amend at 2-6 (RE 146, PageID 6651-55) (seeking to add claim for "racketeering" under 18 U.S.C. § 1962(c) and allege additional facts about "human trafficking" and the "sexual exploitation industry").

The Magistrate Court properly recommended denial of these motions, first, because "granting Plaintiff leave to amend his Complaint again would unduly prejudice Defendants" and second, because amendment "would be futile." Report & Recommendation (RE 209, PageID 15985-88; *adopted by* RE 235, PageID 16839-45).

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[10] Mr. Sevier's argument that the Magistrate Judge lacked the authority to issue his Report & Recommendation is contradicted by statute. *See* 28 U.S.C. § 636 (2008).

First, the fact that Mr. Sevier did not serve co-defendants Samsung and Microsoft until December 2014 does not mean that his proposed amendment was permissible "as of right" against all Defendants. *See* Sevier Br. at 32 (App. Doc. 43-1); FED. R. CIV. P. 15(a)(1)(B); *Jackson*, 2013 WL 3967110, at *4 (rejecting argument that late service on one defendant extended deadline to as other defendants, who had already responded). Google filed its Motion to Dismiss on September 17, 2014 (RE 117, PageID 4636-38), so Mr. Sevier had twenty-one days from that date to amend. *See* FED. R. CIV. P. 15(a)(1)(B). As Mr. Sevier did not attempt to amend until January 16, 2015, he missed his window to amend as a matter of right.

Second, Mr. Sevier's proposed amendments would be futile. The proposals expanded, then cut down, his rhetoric and extended asides but still asserted the same product liability theory.[11] As explained above, that legal theory is meritless, and therefore amendment would have been futile. *See Crawford*, 53 F.3d at 753.

[11] Mr. Sevier's proposed amendments would also be futile because they fail to comply with the pleading requirements of Rule 8. Mr. Sevier argues that the proposed amendment accompanying his Fifth Motion to Amend (RE 248, PageID 16894-97) would cure the Rule 8 concerns, noting that it has fewer pages, paragraphs, and footnotes than the earlier iterations. However, as the District Court correctly stated, "length is not dispositive—meeting the pleadings requirements of Rule 8 is." Order (RE 235, PageID 16839-45).

CONCLUSION

For the reasons stated above, Google respectfully requests that this Court affirm the District Court's dismissal of the Complaint.

Dated: April 5, 2016

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

Pursuant to FED. R. APP. P. 32(a)(7)(C) and 6 CIR. R. 32(a), the undersigned counsel for Google certifies that:

1. This brief contains 8304 words, excluding portions of the brief exempted by FED. R. APP. P. 32(a)(7)(B)(iii) and 6 CIR. R. 32(b)(1); and
2. This brief has been prepared in a proportionally-spaced typeface using Microsoft Word 2010 in 14-point Times New Roman font.

Dated: April 5, 2016

s/ Eric. P. Schroeder
Eric P. Schroeder

Counsel for Defendant-Appellee Google Inc.

CERTIFICATE OF SERVICE

Pursuant to FED. R. APP. P. 25(d) and 6 CIR. R. 25(f), the undersigned counsel for Google certifies that on March 28, 2016, two true and correct copies of the foregoing document were served on Plaintiff via United States mail, postage prepaid, at his address of record below:

Mr. Chris Sevier
9 Music Square South #247
Nashville, TN 37203

All other participants in this action are registered CM/ECF users and will be served via the appellate CM/ECF system.

Dated: April 5, 2016

s/ Eric. P. Schroeder
Eric P. Schroeder

Counsel for Defendant-Appellee Google Inc.

RULE 30(g) DESIGNATION OF RELEVANT DOCUMENTS

Pursuant to 6 CIR. R. 30(g)(1), Google designates the following relevant documents from the electronic record of proceedings before the U.S. District Court for the Middle District of Tennessee, Case No. 3:14-CV-01313:

RE	PageID	Description	Date
1	1-159	Original Complaint	06/17/14
13	1004-07	Sevier's First Motion to Amend ("Notice of Filing Amended Complaint")	07/03/04
13-1	1008-1114	First Amended Complaint (Controlling)	07/03/14
49	2294-95	Dell, Inc's Motion to Dismiss the First Amended Complaint	07/28/14
50	2296-2306	Memorandum in Support	07/28/14
51	2307-43	Verizon's Motion to Dismiss the First Amended Complaint	07/28/14
52	2344-72	Memorandum in Support	07/28/14
117	4636-38	Google's Motion to Dismiss the First Amended Complaint	09/17/14
118	4639-88	Memorandum in Support	09/17/14
123	4695-4720	Sevier's Response to Google's Motion to Dismiss	09/30/14
133	5887-96	Google's Reply in Support of its Motion to Dismiss	10/21/14
145	6648-49	Sevier's Second Motion to Amend ("Motion to Amend the Complaint and Request to Stay the Defendants' Moot Motions to Dismiss Until After an Amended Complaint is Provided")	11/27/14

146	6650-75	Memorandum in Support	11/27/14
157	10114-24	Google's Response to Sevier's Second Motion to Amend	12/11/14
189	13685-13921	Proposed Complaint	01/19/15
190	13922-31	Sevier's Third Motion to Amend ("Motion to Supplement First Motion to Amend…")	01/19/15
191	13932-33	Memorandum in Support	01/19/15
198	15458-64	Google's Response to Sevier's Third Motion to Amend	01/30/15
208	15982-84	Order	02/20/15
209	15985-88	Report and Recommendation	02/20/15
210	15989-96	Report and Recommendation	02/20/15
213	16003	Order	02/20/15
214	16004-05	Order	02/20/15
215	16006	Order	02/20/15
216	16007	Order	02/20/15
221	16133-36	Sevier's Fourth Motion to Amend ("Motion to File a Second Amended Complaint")	03/06/15
222	16137-16311	Memorandum in Support	03/06/15
223	16312-17	Sevier's Motion for Reconsideration	03/06/15
224	16318-42	Memorandum in Support	03/06/15
235	16839-45	Order Dismissing First Amended Complaint	03/16/15
237	16847-49	Sevier's Rule 60 Motion to Set Aside	04/02/15
238	16850-64	Memorandum in Support	04/02/15

246	16885-91	Google's Response to Sevier's Rule 60 Motion to Set Aside	04/16/15
248	16894-97	Sevier's Fifth Motion to Amend ("Motion to File a Second and Final Amended Complaint")	05/02/15
249	16898-16995	Memorandum in Support	05/02/15
250	16996-17073	Proposed Complaint	05/02/15
254	17450-55	Google's Response to Sevier's Fifth Motion to Amend	05/19/15

APR 27 2016

DEBORAH S. HUNT, Clerk

No: 15-5345

IN THE UNITED STATES COURT OF APPEALS FOR THE 6TH CIRCUIT

Chris Sevier

(Appellant-Plaintiff)

v.

Google Inc., Verizon Wireless Tennessee Partnership d/b/a Verizon Wireless, Samsung Electronics America Inc, Android, Life's Good Inc., (LG), Motorola, Inc., xBox Inc., Microsoft Inc., in his official Capacity, Planned Parenthood Federation of America

(Appellees-Defendant)

Lauren Dixon

(Intervening Appellant)

On Appeal From The United States District Court for The Middle District of Tennessee at Nashville

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APPELLANT REPLY

"Then he took his staff in his hand, chose five smooth stones from the stream, put them in the pouch of his shepherd's bag and, with his sling in his hand, approached the Philistine"-1 Samuel 17:40

www.fightthenewdrug.org

/s/ Chris Sevier Esq/

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ORAL ARGUMENT REQUESTED

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"At what point shall we expect the approach of danger? By what means shall we fortify against it?-- Shall we expect some transatlantic military giant, to step the Ocean, and crush us at a blow? Never!--All the armies of Europe, Asia and Africa combined, with all the treasure of the earth (our own excepted) in their military chest; with a Buonaparte for a commander, could not by force, take a drink from the Ohio, or make a track on the Blue Ridge, in a trial of a thousand years. At what point then is the approach of danger to be expected? I answer, if it ever reach us, it must spring up amongst us. It cannot come from abroad. If destruction be our lot, we must ourselves be its author and finisher. As a nation of freemen, we must live through all time, or die by suicide." President Lincoln; Lyceum Address

TABLE OF AUTHORITIES

"The movement of postmodernism is against binaries. Many in the academy say 'if you say you have the truth you are setting up a binary.' All of my postmodern friends say "I am one of the good people who do not set up binaries and you are one of the bad people who do.' There are two kinds of people in the world, people who set up binaries and make exclusive truth claims and people who do but don't know they are doing it. The real question is,'not how do we get more world peace by stopping people from making exclusive truth claims' no you cannot no make stop making exclusive truth claims. You cannot stop setting up biranies. What you really need to know is this "whose truth claims make them more loving and respecting of people who differ with them. That's what you need. Do not live in the illusion that you can stop making truth claims" Tim Keller quoting Terry Eagleton "The Illusions of PostModernism" in a discourse on Public Faith in The Rise Series Redeemer https://www.youtube.com/watch?v=dzkspSXg2tM

CASES

STATUTES

"When the people fear the government, that's tyranny; when the government fears the people, that's freedom." - Thomas Jefferson

RULES

"The destruction of morality renders the power of the government invalid, for government is no more than public order; it weakens the bands by which society is kept together. The corruption of the public mind, in general, and debauching the manners of youth, in particular, by lewd and obscene pictures exhibited to view, must necessarily be attended with the most injurious consequences." - *Commonwealth v. Sharpless* first obscenity case (1815)

COALITION OF DECLARATIONS AND SECONDARY AUTHORITY

Then I heard the voice of the Lord saying, "Whom shall I send? And who will go for us?" And I said, "Here am I. Send me!" - Isaiah 6:8

NOW COMES, the Appellant, a former Judge Advocate General, in reply. In the movie, "the Predator," Governor Schwarzenegger said "if it bleeds, we can kill it," regarding what appeared to be an invincible alien.[1] Because this lawsuit forced the Tech Enterprise to float their best defenses for their pornography distribution platform in the public record, a coalition of family groups and lawmakers are going to tear their positions to shreds for the benefit of the public health. (See Declarations)[2] The Court is invited to partake.[3] Filtering is a human rights matter.

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[1] The Tech Enterprise has bedded down with human traffickers in selling filterless devices that do the grooming of victims for them through proliferation of false permission giving beliefs, making the Enterprise the greatest sexual predator in human history. The Appellant does not and has not waived a single cause of action on appeal.

[2] In view of the 35 declarations provided by the Appellant, the Appellees defenses can be described in the words of cases they provided as "wholly frivolous, fantastic, delusional, indisputably meritless." *Neitzke v. Williams,* 490 U.S. 319, 325, 109 S.Ct. 1827 (1989). The Appellees response briefs are quixotic attacks that amounts to a masterpiece in personalized polemical insults and unwarranted liberal fascism birthed out of a complete state of denial due to the unsurpassed arrogance that literally makes them an internal threat to families and National Security interests. (DE 281 Lieutenant Col. Yates; DE 205 Lieutenant Governor Harmer). The 35 declarations provided by the Appellant alone defeats the position in *Hagans v. Lavine*, 415 U.S. 528, 536-37 (1974) and establishes SMJ. The Declarations also establish that these matters are not reductionistic and whimsical, when it comes to pleading. The Appellees do not even attempt to refute the Declarations. Instead, the Appellees ask the Court to treat the Declarants (many of whom are victims of human trafficking) and the Appellant with contempt in step with a liberal fascism that warrants prosecution by the DOJ.

[3] This case is more than the modern day Tobacco litigation. Sex Slavery is the modern day slavery issue. (300 Docket Entries is not the problem). The

Denying consumers the fundamental right to consent to otherwise unavoidable exposure to obscene influences amounts to a form of sexual exploitation.[4] Besides making failed defenses that improperly attempt to convert the appeals court into a jury, the gist of the Appellees defense is that (1) the court lacks subject matter jurisdiction (SMJ)[5] and that (2) the Appellees counsel lacks the intelligence to

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Enterprise's pornography is fueling the demand side of human trafficking. (DE M.A.T.H 135) This case will inflict a powerful blow to the demand of human trafficking. "Prevention" not prosecution, must be the first response, although minors never should have been sold filterless products to being with. TCA § 39-17-911; 18 U.S. Code § 1470. (DE 263 Dixon). The Tech Enterprise thinks it is above the law like Secretary of State Clinton does. The Tech Enterprise deserves to face a FBI primary of its own. The evidence shows that the Appellees are part of an axis of evil in a seamless interconnected continuum of strip clubs, human trafficking, prostitution, child exploitation, and infant murder. This is not a "free speech" matter, this is a matter of allowing consumers the right to regulate their own mental, reproductive, relational, emotional, spiritual, and sexual health. This is a matter of common sense. Just like a car manufacturer has the duty to sell its products with seat belts to ward off potential injury, the tech industry has a duty to sell its products with filters to offset the secondary harmful impact of pornography. Without the car, there are no car wrecks, and without the filterless devices, there would no secondary harmful effects of exposure to pornography.

[4] Just as an individual has the right marry on the basis of their sexual orientation as a "personal choice," "individual right," "existing right," and "fundamental right," consumers have the rights to be shielded from obscenity that infringes upon these rights, alters sexual orientation, and violates the community standard. *Zablocki v. Redhail*, 434 U.S. 374, 384 (1978)(fundamental right); *Cleveland Bd. of Educ. v. LaFleur*, 414 U.S. 632, 639-40 (1974)(personal choice); *Loving v. Virginia*, 388 U.S. 1, 12 (1967)(existing right); *Lawrence v. Texas*, 539 U.S. 558 (2003)(intimate choice).

[5] PINK ELEPHANT: The exclusive reason the Appellees challenge SMJ under *Apple v. Glenn*, 183 F.3d 477, 479 (6th Cir. 1999) is because of its case caption,

understand the complaint because of its organization and length, hoping the Court does as well.[6] In terms of SMJ, three legislative facts are determinative.[7] First, on April 19, 2016, Utah passed SRC 9, a legislative resolution officially establishing that the pornography on filterless products has caused a "public health crisis;" thereby, SMJ is resolved.[8] Second, under Utah Code, ISPs/Device Makers are

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not substance. The Appellees want the public to think that there was precedent to bar this case to ward off class action suits, which is the pink elephant in the room. The Appellees ask the Court to play along. *Apple v. Glenn*, did not involve Apple the widget maker, it involved a imbecile named Thomas Apple who sued the Honorable Chief Justice Rehnquist and other top officials because they did not respond to his letters. Although Thomas Apple might qualify as an attorney for the Tech Enterprise, Thomas Apple's case is not on point to this racketeering action filed by a former Judge Advocate General.

[6] Although it is "impossible" for the Appellees to be honest, it is not "impossible" for them to "parse out" the complaints given their robust responses. *Jones v. Nat'l Commc'n & Surveillance Networks*, 266 Fed. Appx. 31, 32 (2d Cir. 2008) The motion to dismiss under rule 41(b) amounts to creative lawyering. Instead of sanctions, the Court should award a certificate of creative writing by reversing. Let's leave creativity to the Appellant: https://www.youtube.com/watch?v=I6IXlqMtk5c

[7] "Court of appeals can take judicial notice of legislative facts." *Landell v. Sorrell,* 382 S3d. 91 (2nd Cir 2004). *Lebron v. Secretary of Florida*, 772 F3d 1352 (11th. Cir 2014). *Brand v. Motley,* 526 F.3d 921, 923 (6th Cir. 2008) "A complaint is frivolous if the plaintiff fails to present a claim with "an arguable basis either in law or in fact." The Appellant's complaint is supported by legislative facts.

[8] PUBLIC HEALTH CRISIS: The Appellant asks the Court to force the Appellees to modify their products to cure a public health crisis they created. The Appellees counter by arguing that their conduct is protected by free speech considerations, even though they are not even state actors. The Appellees then attempt to take away the Appellant's free speech rights stating, "Defendants-Appellees respectfully submit that Sevier's actions warrant an order enjoining him from filing

further actions in this Circuit (or alternatively, at least the U.S. District Court for the Middle District of Tennessee), without first obtaining leave of the court of filing, and believes that this Court should issue such an injunction (or, alternatively, refer the matter to the district court below for consideration of such an order)" *See, e.g., Sassower v. Thompson, Hine & Flory*, No. 92-3553, 1993 WL 57466, *1 (6th Cir. March 4, 1993). The Appellees then complain that the Appellant calls TN bar a "cesspool." Although Appellant Sevier is not a sell out who cares about money, titles, and reputation, he does care about the welfare of families and children, having experienced what it feels like to lose both. A coalition lead by Fight The New Drug, through the leadership of Senator Weiler, presented presented SCR 9 to the assembly which Governor Herbert Governor signed into law on April 19, 2016. SCR 9 legislatively resolves that the Enterprise's filterless devices distribution machines has officially caused a "public health crisis." The Appellant has standing here because his injuries stem from that "public health crisis." The "wait and see" approach argued by the Enterprise under an "open and share model" has failed. We have "waited and seen" filterless devices create a sex trafficking holocaust and porn pandemic thanks to a liberal fascism dogmatic ideology that amounts to unbridled lunacy due to a truth allergy that is downright dangerous. (DE Yarro 262; Clean Services Foundation 136). It is one thing for a state to identity a health crisis. It is another thing to come up with a solution. This lawsuit and COFA are the solutions. The 6th Circuit Court is the catalyst that will push the entire world back towards innocence in issuing an injunction that will accord with first amendment heightened scrutiny under *Ashcroft v. Am. Civil Liberties Union*, 535 U.S. 564, 122 S. Ct. 1700, 152 L. Ed. 2d 771 (2002). No amount of silly misdirection arguments floated by the Appellees will stop that. Filterless devices brought pornography above ground and into our homes in a way that is unavoidable. All of us have been adversely affected. The reasonable modifications that the Appellant demands will make the "right choice," the "easy choice." Minors, like Appellant Dixon, cannot enter an R-rated movie but they can walk around with an X-rated theater in their pocket in the form of a filterless Samsung Andriod sold by Verizon. The double standard of regulation applied to bricks and mortar sex shops and not the Tech Enterprise is appalling. Consumers deserve the fundamental right to choose what sort of influences they are subjected to instead of allowing the Enterprise to patronizingly make that choice for them in the name of "freedom."

already obligated to provide consumers with filters, if requested.[9] Third, Senator Weiler (UT) and Rep. Williams (AL) are first state legislatures who committed to presenting the Child Online Filter Act (COFA) to their legislative assemblies.[10]

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[9] Under Utah Code § 76-10-1231(1)(a)(b) an ISP/Device Maker must provide a filter to a consumer if requested. The whole charade about not having the ability to filter is, therefore, out the window. These matters involve a case of first impression, not novel questions of law. The thrust of the Appellees positions is that cases of first impression must never be filed. If that were true *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954) would have never overturned *Plessy v. Ferguson*, 163 U.S. 537 (1896) and there would still be racial segregation. Appellant Sevier and Clean Services Foundation may be filing a lawsuit to strike down Utah Code § 76-10-1231(1)(a)(b) under the establishment clause. Although an ISP could charge a fee to have the filter removed, it cannot charge a fee to have it installed per the state's guidance without violating religious liberties under the first amendment. Additionally, just as section 230 of the CDA does not nullify Utah Code § 76-10-1231(1)(a)(b) , it does not bar this action. These kinds of legislative facts prove fatal to the Enterprise's flawed bullying narratives.

[10] COFA was born out of this litigation. The Appellant is asking the court to find the presence of the law that he is simultaneously codifying for the benefit of the state legislatures in order to rectify a porn pandemic unleashed onto society by the Tech Enterprise. That exceptional factor alone demonstrates that the Court has SMJ. If the Court is curious about legislative history of COFA, it may ask Appellant Sevier, since he is authoring the first draft for all 50 states with Clean Services Foundation. (DE 136). Just as the COFA legislation is not implausible, neither is this case. If the complaint was disorganized and meritless, it would not have compelled the legislative responsiveness that this action has. This litigation, which has come at great personal expense to the Appellant and his declarants, has been instrumental in vetting the law supporting COFA despite the lack of integrity demonstrated by the Appellees and the lower Court. Legislatures fear the ACLU for good reason, and topics like "porn" and "first amendment heightened scrutiny" are complex and challenging. The filing of this action has vetted the law with the aid of the pro-sex trafficking and pro-child exploitation Tech Companies. "Give them even rope and they'll hang themselves."

If the Court remands this here, Governors will sign COFA into law and leaders around the world at set to join the bandwagon.[11]

COFA CURES COPPA AND THE COURT IS THE CATALYST

"First they ignore you, then they mock you, then they fight you, then you win." - Dr. King

An injunction by this Court will cure it's damaged reputation in the area of pornography and be a catalyst for COFA.[12] Just imagine, once the Court and

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[11] Just after the Appellant filed the first of these lawsuits, the International Business Times wrote: *"Last week, a man in the U.S. sued Apple for not including a default 'safe mode' that prevented him from accessing porn. Chris Sevier said his MacBook led him to a serious porn addiction that resulted in depression and his family leaving him. While many initially mocked the case, the UK is now asking tech companies to do exactly what Sevier asked for, showing how serious lawmakers around the world are taking the issue of online pornography."* The Appellant demands that the Federal Courts start taking this action "seriously" like other "lawmakers." This Court truly holds the keys because these matters involve first amendment heightened scrutiny free speech matter which confuses many lawmakers who actually lack the ability to practice law. If the Court wants to make history, it should not for the first time ever use rule 41(b) to dismiss this case involving a public health crisis. Verizon App. br. pg 20. It should side with the Judge Advocate General. Dismissal would be more than just a harsh remedy under Holt v. Pitts, 619 F.2d 558, 562 (6th Cir. 1980), it would amount to the ratification of judicial fraud and human trafficking rackets.
http://www.ibtimes.com/war-porn-uk-does-david-camerons-plan-battle-child-pornography-go-too-far-video-1355279

[12] INTEGRITY: The Appellant cares deeply about the integrity of the Courts and Corporations, just like his Declarants. Third Party filtering companies have appeared in this action, declaring that they should not even be in business. Third party filtering companies lack the insider knowledge that the Tech companies have concerning closed systems. (DE Yarro 262; NetNanny 239, Ever Accountable 304). Like William Wilberforce, these Companies just want justice no matter the personal cost. Yet the Appellees refuse to accept any blame and make irrational arguments such as, "Mr. Sevier cannot hold the entire mobile phone industry...liable for providing Mr. Sevier a mobile device which allowed him to access pornography on the Internet, nor can he hold Google and others liable for alleged injuries to society at large." Google Ap. B 14. But the Appellees cannot

legislature make the Appellees sell their products with filters, for the first time in history the Tech Enterprise can market their products as "family friendly" without committing fraud. The Enterprise can comply with the "moral responsibility"[13] to

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blame the Creator recognized in the Bill of Rights for designing mankind in a manner where exposure to pornography filterless device reaps havoc their biochemistry. After blaming content creators and consumers for the injuries stemming from their badly designed products, before you know it the Appellees will be demanding that God be held accountable and nailed to a tree. Oh wait.

[13] Because Steve Jobs spoke of "morality responsibility" regarding pornography on cell phones on behalf of the Tech Enterprise, the Appellees cannot say "morality" does not matter when it comes to defining policy and Court decisions. To argue that moral doctrine does not matter is itself a moral doctrine vying for superiority. While arguing for free speech, the Appellees imperialistically sermonize about the plausibility of prohibiting Christian rhetoric as a basis for law as a jaded attempt to proselytize everyone into forced acceptance of its self-serving porn gospel in a manner that can only be categorized as malicious liberal fascism predicated on malicious power plays. Now that it is 2016, the Court and the public must face the fact that "without faith, there is no basis for morality, and without morality there is no basis for law." (DE 185 Battle Plan Ministries). Because the Appellees argue under moral relativism, it means that all of their positions are relative, which means that no one has to even listen to them. Perhaps, the Appellees are better off not talking. If a junior Army Officer, like Lieutenant Sevier, can disregard an immoral order predicated on Christian morality coming from a superior to include the President under (UCMJ) 809.ART.90 (20), then the Court and legislature have a compelling interest to use that same objective morality as a basis to craft law and policy in the area of sex and marriage. *Armbruster v. Cavanaugh*,140 Fed. Appx. 564 (3rd Cir. 2011). The United States recognized universal law based on Christian morality that is woven into the fabric of the universe at the Nuremberg trials; clearly the United States must still recognize that same superior set of morality as a basis for law when it comes to restricting the tech companies. *Kiobel v. Royal Dutch Petroleum Co.*, 621 F.3d 111, 154 (2d Cir. 2010). Everyone says that "they are on the side of justice," but we cannot even agree on "what justice is." A foundational question in this case is whether the USSC was right in *Holy Trinity v. United States*, 143 U.S. 457 (1892), when it found that "American is a Christian

Nation;" or alternatively, are we now a "Savage Nation" that is part of a caliphate of moral relativism. Justice Kennedy, a moral relativist, enshrined the modern cultural mindset in *Planned Parenthood v. Casey*, 505 U.S. 833 (1992) when he said, "At the heart of liberty is the right to define one's own concept of existence, of meaning, of the universe." Translated in German, Justice Kennedy's worldview reads "Jedem das Seine," which means "to each his own," which was what the sign hanging at the entrance of Buchenwald concentration camp read. "Jedem das Seine" is the cornerstone religious value behind Planned Parenthood's murder factory. We have "waited and seen" that abortion creates two victims, one dead (the child) and one hurt (the mother). Planned Parenthood proudly takes the Enterprise's filterless porn gospel into schools to proliferate promiscuity which leads to more death money for them. If the Nazis and Planned Parenthood are objectively evil, maybe this is why Christian Justice Scalia held that relativist Judges are "a threat to Democracy" in *Obergefell v. Hodge*,192 L. Ed. 2d 609 (2015) because they too are under the influence of the same toxic worldview. (The Appellant tried to consolidate this case with *Tanco v. Haslam,* 7 F. Supp. 3d 759 (MD Tenn. 2014) which because *Obergefell*). Both Justice Kennedy and Justice Scalia cannot be right at the same time. Either Christian Judges must be purged from the bench or relativist Judges because these worldviews are irreconcilable. Furthermore, this question is raised here: "when is the Court and the American public going to come to terms with the fact that the establishment clause of the first amendment is not only self-defeating and irrational, it is impossible to enforce?" All public officials bring with them a set of semi-religious unproven faith based assumptions with them into the public square, but not all truth claims are equal. We are not just at law here; we are at religion. All religion amounts to is a set of question to the greater questions. Not all religious doctrine are equal. "Truth" is more important than we think and "freedom" is more complex than we assume. Without "truth" there is no "freedom." "Truth" is always relevant to Court proceedings to eradicate darkness. "Freedom" is not the presence of restrictions or the absence of restrictions, "freedom" is the presence of the right restrictions. The Court and legislatures must impose the set of restrictions that fit the truth of our design or the givenness of our nature. The set of restrictions that produce the most amount of peace, healing, forgiveness, grace, reconciliation, and intimacy should be the set of restrictions that the Court adopts. In this action, the Appellant has respectfully given the Court the opportunity to impose the set of restrictions on the Appellees that will allow the world to experience a richer and deeper freedom in step with an acknowledged "moral responsibility" advanced by the Enterprise.

keep pornography off of their products that Steve Jobs blabbed so much about on behalf of the Enterprise to the media. It is "frankly absurd" that the Enterprise pretended that Appellant has not provided legal authority to support this cause.[14]

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[14] DEBUNKING DEFENSES: John Adams stated, "Our Constitution was made only for a moral and religious people. It is wholly inadequate to the government of any other." Since our inception, the Courts have never been in favor of pornography and have always classified it as unprotected dangerous speech. *Court v. State*, 51 Wis. 2d 683, 188 N.W.2d 475 (1971) vacated, 413 U.S. 911, 93 S. Ct. 3032, 37 L. Ed. 2d 1023 (1973) and abrogated by *State v. Petrone*, 161 Wis. 2d 530, 468 N.W.2d 676 (1991); *State v. Weidner*, 2000 WI 52, 235 Wis. 2d 306, 611 N.W.2d 684; *Ebert v. Maryland State Bd. of Censors*, 19 Md. App. 300, 313 A.2d 536 (1973). *Roth v. United States*, 354 U.S. 476, 485, 77 S.Ct. 1304, 1309, 1 L.Ed.2d 1498. *United States v. Gendron*, S24:08CR244RWS (FRB), 2009 WL 5909127 (E.D. Mo. Sept. 16, 2009) report and recommendation adopted, S2 4:08CR 244 RWS, 2010 WL 682315 (E.D. Mo. Feb. 23, 2010); *Chapin v. Town of Southampton,* 457 F. Supp. 1170 (E.D.N.Y. 1978); *Sovereign News Co. v. Falke*, 448 F. Supp. 306 (N.D. Ohio 1977). We have the "I know it when it see it" and "Miller" standards. *Jacobellis v. Ohio*, 378 U.S. 184 (1964); *Miller v. California*, 413 U.S. 15, 3034 (1973). The Appellees erroneously compare the liability of a cell phone manufacturer to the liability of a video game manufacturer under *James v. Meow Media, Inc.*, 300 F.3d 683, 701 (6th Cir. 2002), when the Appellants comparison of a cell phone manufacturer to a cigarette vending machine is an exact analogy under *Richardson v. Phillip Morris Inc.*, 950 F. Supp. 700 (D. Md. 1997); *Greene v. Brown & Williamson Tobacco Corp.*, 72 F. Supp. 2d 8~2, 893 (W.D. Tenn. 1999). The Appellees make flawed immunity arguments under section 230. First, section 230 defenses can only be raised after discovery has been taken. *Jones v. Dirty World Entm't Recordings, LLC*, 766 F. Supp. 2d 828, 836 (E.D. Ky. 2011). Second, section 230 does not apply as a defense for the design of physical products that distribute all of the content on the web and that have the capability to filter out obscenity on the front end. The Appellees were not sued because of their websites or isolated software piece. They were hauled into Court because of the harm caused by their physical product. Third, it is self-evident that the"Communications Decency Act" was created to promote "decency," not "indecency." Fourth, the CDA was created more than 20 years ago, in response to the Enterprise's decision to sell filterless products. Most of the CDA has been struck down; the rest lacks but

The controlling authority backing the Appellants demand is set forth by the Supreme Court in *Ashcroft v. Am. Civil Liberties Union.*[15] Filing this lawsuit

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a stake through the heart to be completely dead. Fifth, the CDA does not provide any immunity to anyone who has violated the Copyright Act or any other Federal law to include racketeering statutes, obscenity codes, and the Lanham Act. Also, Verizon tried to argue immunity under a contract that it did not produce. Contract disputes are for the jury, not the Appellate Court.

[15] *Ashcroft v. Am. Civil Liberties Union*, 535 U.S. 564, 122 S. Ct. 1700, 152 L. Ed. 2d 771 (2002). The Appellees chief response to the controlling authority provided by the Supreme Court is to pretend that Appellant Sevier challenged Judge Knowles to mono e mono "Andrew Jackson fist fight" pursuant to a pattern of reckless lunacy that warrants actual disbarment. The Tech Enterprise has an army lawyers representing them and who are incapable of defending substantively; they try to reduce the Court to Donald Trump like playground out of desperation. The Appellees have zero response to the *Ashcroft* controlling authority other than to pretend that it does not exist in step its state of denial. The USSC struck down down the CDA and COPPA because Congress was regulating either individuals or content makers, and not the handful of readily identifiable tech companies, whose filterless products were the superseding cause of the porn pandemic. *Reno v. ACLU*, 521 U.S. 844, 117 S.Ct. 2329, 138 L.Ed.2d 874 (1997). The USSC in *Ashcroft* did not strike down COPPA, without providing the filter alternative, which is the exact same relief that the Appellant demands here. The USSC found that filters are the least restrictive means to regulate the pornography distributed by these products. A Congressional inquiry group commissioned by the *Ashcroft* Court found the same. The *Ashcroft* Court all but ordered the Attorney General to report back to Congress to tell them to pass filter legislation that regulates the handful of Tech Companies on trial here. But Congress has not been responsive because we have a Democracy for hire. We do not have a Government of the people, by the people, and for the people, we have a Government of the Miscrosofts, by the Dells, for the Samsungs. This lawsuit fixes a break down in our political system, defending Democracy at the expense of liberal fascism. The Appellant has given the Court personal jurisdiction over the actual culprits that the USSC wanted to see regulated in the first place in *Ashcroft* in asking that his injuries be remedied. The products sold by the Enterprise amount to handheld extension of the retailer and manufacturer. (DE Yarro 262). These products are

changes things. The Appellant has given the Court personal jurisdiction over the Enterprise that the *Ashcroft* Court wanted to see regulated in the first place. This Court must act. Otherwise, the "cesspool"[16] categorization must continued in step

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subject to the existing display statutes like TCA § 39-17-914. The products never leave the instrumentality and control of the manufacturer and retailer, which means that the manufacturers are subject to higher standards. *Towle v. Phillips*, 172 S.W.2d 806, 808 (Tenn. 1943). An injunction by this Court and COFA amount to the digital version of display laws like TCA § 39-17-914. An injunction and COFA pass first amendment heightened scrutiny under *Ginsberg v. New York*, 390 U.S. 629, 639–40, 88 S.Ct. 1274, 20 L.Ed.2d 195 (1968) and *Davis Kidd Booksellers, Inc. v. McWherter,* 866 S.W.2d 520 (Tenn. 1993).

[16] RED HERRING: This Court should not waste this opportunity to protect the public health because it is worried about Judge Knowles and the Appellee's attorneys being "embarrassed." The arrogance of lawyers could itself be the heart of a public health crisis. Just because the Appellant stopped working at white shoe/blue chip law firms and just because the Appellant is not getting paid a windfall to defend a toxic platform at the expense of the children does not mean that the authority he provided by the Supreme Court is not binding on the Courts. It is. Likewise, just because John Grisham has expressed interest in writing about this litigation does not mean that it is not the Appellees who are not the true authors of fiction. They are. Who is making the argument is not as important as what is being argued. The public record shows that Appellant is an international DJ, commercial model, an Army Officer, overseas missionary, graduate of Vanderbilt in politics and law, a whistleblower, a Constitutionalist, and a former CEO of a record company who has prevailed in other litigation brought before this Honorable Court against Donald Trump's puny starlet. The Appellant has been falsely labeled by the Gay Gestapo, Planned Parenthood, the liberal media bullying machine, opposing civil litigants, and immoral government officials (all of whom are renown bullies), as "mentally ill," "stalker" and "dangerous war veteran;" descriptors that have nothing to do with reality or everyday life. The fake labels have been invented in order to discredit, stifle, and impeach his positions, compelling the public to marginalize and violently oppress him through harbored animus. Now the Appellant can add to the list of false characterizations that he is "a litigant who challenges Judges in Tennessee to a one on one fist fight" thanks to

Verizon's propensity to perpetuate colossal fictions as their defense in chief. Congressional Committees could have a "field day" with the new fake characterization. If Judge Haynes had allowed the Appellant to bring Donald Trump's Celebrity Apprentice starlet, John Rich, to accountability after the 6th Circuit reversed in *Severe Records, LLC v. Rich*, 658 F.3d 571 (6th Cir. 2011), then the fake "stalking case" would never have new materialize. The fake stalking case provides volumes of fodder for the liberal media's smear campaigns, despite the fact that the case was punted out of court without any admission of guilt, after the state harassed the Appellant for a year and half without any basis in fact or law. (This included the wrongful imposition of a dehumanizing GPS device without any probable cause - the Appellant had sued three ADAs for outrageous misconduct previously - so pay back was at issue). Because Judge Haynes refused to do his job due to a rare kind of irrationality that makes him a threat to democracy, this injustice was not cured, which emboldened Mr. Rich and other immoral state officials, like ADA Tammy Meade, form a bandwagon and engage in a wide range of malicious prosecution with total impunity. Because the Appellant turned the other cheek over and over again, neither Judge Haynes nor Mr. Rich have been brought to justice at the expense of the integrity of the justice system. Because the firm representing Microsoft was involved in that phony stalking case as counsel for the Appellant and because Microsoft's counsel unethically raised those matters in its response brief, the Court should disqualify him as a matter of law. Although there is no real evidence that the Appellant is "mentally ill," there is insurmountable written evidence that he was in the process of reporting Democratic Congressman John Mark Windle to the Inspector General in Iraq for DOD and Army Regulations violations while under Title 10 Jurisdiction. To stop him from reporting, the Congressman Windle maliciously conspired and used the combat stress clinic to block the reporting. Ultimately, the DOD, under President Obama, refused to be responsive to this injustice despite the series of timely complaints filed against Congressman Windle because Windle is a Democrat, and the President Obama is convinced that the purpose of the DOJ and DOD is to keep Democrats and those who are the enemy of the truth in power. *Sevier v. Windle*, 3:2011-cv-00246 (M.D.T.N March 15, 2011). If Nancy Jones, the head of the ethics commission did not use her position of authority to target Christian attorneys, like Lois Lerner targeted conservative groups at the IRS, then Appellant Sevier would not have had to sue her in defense of the integrity of the profession that she is supposed to protect and that opposing counsel here routinely threatens. *Sevier v. Jones*, 3-11-0435 (M.D. Tenn. Feb 15, 2012). Like the Appellees here, Nancy Jones had no defense to the case brought against her for Constitutional

the with facts in *Rich, Windle, and Jones* for Congressional Committees. The procedural history proves reversal for two reasons found in the docket.[17]

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violations and fraud. So, Mrs. Jones took self-help measure, commissioning Krisann Hodges to dupe the VA into violating HIPPA by handing over confidential military medical records that related to Congressman Windle's campaign to stifle whistle blowing in foreign theater of war. Because there is no real detached accountability in Tennessee, Mrs. Jones and Mrs. Hodges flaunted the medical records before the Tennessee Supreme Court, while the litigation against both was pending in Federal Court. The BPR is an agent of the TNSC. The TNSC punished the Appellant by taking the unlawfully acquired military records out of context, pretending that he cannot practice law. The phony "mentally ill" label continues to provide volumes of fodder for the liberal media bullying machine to smear the Appellant with. Of course, the fact that the Appellant is practicing law as the Court reads this sentence supports his position that the Tennessee Justice system is a "cesspool. Instead of banning the Appellant from filing lawsuits, as unethically requested by the reckless opposing counsel, the 6th Circuit should enjoin the TNSC from withholding his license and report these violations to judicial oversight. The fact that the TNSC engaged in service discrediting misconduct is not a matter that should be swept under the rug. As parents with children, the Appellant asks the 6th Circuit to put itself in the Appellants shoes to consider how it would feel if it was they who were treated this way by the TN Justice system? So far, the Appellant has refused to apologize for having gone to law school and for having volunteered to serve his Country. Believing in Judicial integrity should not be a sin. Yet, the Appellant is a victim indeed; the worst victimization comes at the hand of the Enterprise, and if the 6th Circuit would side with him here, it could perhaps help cure some of collateral injustices on display. "The breaking arms through valid legal recourse" metaphor has manifested itself in the form of Appellant Sevier and Appellee Dixon filing lawsuits against other members in Circuits outside of the 6th in the hopes that it can produce integrity from all of the Courts, who may be under the influence of the chamber of commerce. *Dixon v. Blackberry*, 2:2016-cv-00040 (E.D.TX 2016). The Appellant should not be forced to file lawsuits outside of this Circuit to compel honesty. Instead of kicking the Appellant and asking that he be silenced, the Appellees counsel should be fighting to rectify injustices like these as part of their ethical duty which they disregard.

[17] APPLE DOCKET: Although the Appellees lie, the docket sheet does not. On June 19, 2013, the Appellant filed an original complaint in *Sevier v. Apple*. (DE 1)

On November 13, 2013, the Appellant filed a motion to amend and attached an amended complaint, adding Hewlett-Packard. (DE 28). On January 15, 2014, Apple filed a motion to dismiss. (DE 60) On September 9, 2014, Judge Knowles denied Apple's motion to dismiss for being "moot" because the motion was directed at a complaint that was not before the Court. (DE 131). Judge Knowles did not grant the Appellant's first motion to amend because he wanted to release Hewlett-Packard from the case in step with a pattern of judicial activism. GOOGLE DOCKET: In this action, the Appellees made the exact same error that Apple made, only this time Judge Knowles tried to fix their error through a malicious power play. On June 17, 2014, the Appellant filed the original complaint (DE 1). On July 3, 2014, the Appellant filed a motion to amend, and attached an amended complaint. (DE 13). In response, most of the Appellees unwisely filed motions to dismiss that were aimed at the pending amended complaint. (DE 49, 51, 67, 112, 114, 117, 125). On November 27, 2014, the Appellant filed a new motion to amend that nullified the prior July 3, 2014 motion to amend, rendering all of the pending motions to dismiss just as moot as Apple's first motion to dismiss. (DE 145, 13). On December 30, 2014, the Appellant served Samsung, (who had been avoiding service for months), after four prior attempts. (DE 27, 134, 171). On January 19, 2015, the Appellant filed a motion to amend out of caution that nullified the motions to amend at DE 13 and 145, whether Judge Knowles likes it or not. (DE 190, 191) *Jefferson v. H. K. Porter Co.*, 485 F. Supp. 356, 359 (N.D. Ala. 1980). The Appellant also contemporaneously filed an amended complaint with new federal claims of racketeering as a matter of course within 21 days in step with rule F.R.C.P. 15, which changed the face of the action completely against all of the Appellees. (DE 191). From that time forward until now, the complaint at DE 191 has been controlling. On January 20, 2015, Samsung filed a motion to dismiss. (DE 194). On February 2, 2015, Microsoft filed its first answer in the form of a motion to dismiss, after delaying for nearly six months and begging for extensions. (DE 201). The fact that Samsung and Microsoft had not filed an answer before the Appellant filed a complaint as a matter of course at DE 191 is fatal to the Appellees defense that the amended complaint at DE 191 does not automatically apply to all parties as matter of law and common sense. On February 22, 2015, Judge Knowles and Judge Sharped, exercised options that they knew that he did not have by granting the July 3, 2014 motion to amend that was nullified twice over, only to then turn around and grant the Appellees motions to dismiss that were directed at the withdrawn amended complaint, which were as equally "moot" as the one filed at the non-controlling complaint in Apple. Making the Appellant pay for the Appellees counsel's mal

CONCLUSION

This action should begin and end with the 1,000 testimonials (now 35,000 testimonials) from Fight The New Drug - stories of minors who have been crushed by unavoidable pornography on filterless devices. (DE 34 exhibits 3 and 4). All Court officers have an inherent duty to shield children of current and future generations, while giving adult consumers the right to choose whether to be exposed. Filter injunction will propel filter legislation, internet zoning, and top level domain solutions, all of which will mitigate the damage of revenge porn and prostitution hubs, while stopping the endless bleeding of Copyright infringement that is crippling the print media, music, and film industries. Filter sin tax will generate the states more than 2 million a year. Federal and state lawmakers are watching: oral argument must proceed and the Court must issue a robust opinion that the Appellant can take back with him to DC and Europe. The fate families is on trial. Given the March 31, 2016 Time Magazine Cover story on pornography, now is the time to act.

Respectfully Submitted,

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practice is in a matter with the public's health on the line is unconscionable. The 6th Circuit must find that "a definite and firm conviction that the trial court committed a clear error of judgment." *Knoll*, 176 F.3d at 363 (citing *Logan v. Dayton Hudson Corp.*, 865 F.2d 789, 790 (6th Cir. 1989). Court should order the trial court to adopt the May 2, 2015 complaint and admonish the trial Court for its intentional abuse, fraud, and waste. (DE 250)

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CERTIFICATE OF COMPLIANCE

The Undersigned hereby certifies that this brief complies with the requirements of the typevolume limitations under the F.R.A.P., as it contains 1176 words, excluding the corporate disclosure statement, table of contents, statement in support of oral argument, any addendum, and certificate of counsel. Certification is based on the word count of word processing system under in preparing the Appellant brief, WordPerfect 12.

Chris Sevier

CERTIFICATE OF SERVICE

I hereby certify that on April 22, 2016, a true and exact copy of the foregoing has been mailed to the defendants counsel at the addresses below: Bryan Cave, LLP (Atlanta Office) One Atlantic Center 14th Floor 1201 W Peachtree Street, NW Atlanta, GA 303093488 Email: angelia.duncan@bryancave.com; Bryan Cave, LLP One Atlantic Center 14th Floor 1201 W Peachtree Street, NW Atlanta, GA 303093488 (404) 5726600 Fax: (404) 5726999 Email: eric.schroeder@bryancave.com; Jacquelyn N. Schell Bryan Cave, LLP One Atlantic Center 14th Floor 1201 W Peachtree Street, NW Atlanta, GA 303093488 (404) 5726600 Fax: (404) 5726999 Email: jacquelyn.schell@bryancave.com; Robb S. Harvey Waller, Lansden, Dortch & Davis, LLP (Nashville) Nashville City Center 511 Union Street Suite 2700 Nashville, TN 37219 (615) 2446380 Email: robb.harvey@wallerlaw.com; lsadcock@wallerlaw.com; Thor Y. Urness Bradley Arant Boult Cummings LLP (Nashville Office) 1600 Division Street Suite 700 Nashville, TN 372030025 (615) 2442582 Email: turness@babc.com; turness@boultcummings.com; scooper@boultcummings.com; Catherine H. Molloy Greenberg Traurig LLP (Tampa Office) 101 E Kennedy Boulevard Suite 1900 Tampa, FL 33602 (813) 3185700 Fax: (813) 3185900 Email: molloyk@gtlaw.com; ramosr@gtlaw.com; meyerp@gtlaw.com; Joseph P. Rusnak Tune, Entrekin & White AmSouth Center 315 Deaderick Street Suite 1700 Nashville, TN 37238 (615) 2442770 Email: jrusnak@tewlawfirm.com; Laura Elizabeth Miller Tennessee Attorney General's Office P O Box 20207 Nashville, TN 372020207 (615) 7416819 Fax: (615) 5322541 Email: laura.miller@ag.tn.gov; Stephen K. Heard Cornelius & Collins, LLP 511 Union Street Suite 1500 P O Box 190695 Nashville, TN 372190695 (615) 2441440 Fax: (615) 2549477 Email: skheard@cclawtn.com; skheard@corneliuscollins.com; ealimon@corneliuscollins.com; Eli J. Richardson Bass, Berry & Sims (Nashville Office) 150 Third Avenue South Suite 2800 Nashville, TN 37201 (615) 7427825 Fax: (615) 7426293 Email: erichardson@bassberry.com; llewis@bassberry.com; Robert F. Parsley Miller & Martin PLLC (Chattanooga Office) Volunteer Building 832 Georgia Avenue Suite 1200 Chattanooga, TN 37402 (423) 7858211 Fax: (423) 3211511 Email: bparsley@millermartin.com; Bob.Parsley@millermartin.com;

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EXHIBIT G

ORDING MOVES TO INTERVENE IN SEVIER V. DAVIS.

SEVIER RESPONDS IN SUPPORT OF INTERVENTION, UNLIKE THE UNITED STATES HERE

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF KENTUCKY NORTHERN DIVISION AT ASHLAND

CHRIS SEVIER **Plaintiff** **V.** **KIM DAVIS, in her official capacity as Clerk Of Rowan County; MATT BEVIN, in his official capacity as Governor Of Kentucky; and ANDY BESHEAR, in his official capacity as Clerk of Attorney General For Kentucky** **Defendants** **ELIZABETH ORDING** **Intervening Plaintiff**	**The Honorable Judge Henry R. Wilhoit, Jr** **Case No: 0:16-cv-00080** **COMPLAINT FOR INJUNCTIVE RELIEF** **JURY DEMAND**

MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE

facts are stubborn things-John Adams

NOW COMES I, Elizabeth Ording, pursuant to rule 24 of the Federal Rules of Civil procedure seeking to intervene in civil rights action as a member of the true minority class of sexual orientation in step with my "existing right," "individual right,"and "fundamental right" to marry based on my sexual orientation, "personal choice," ideology, and identity narrative, and personal feelings. *Obergefell v. Hodge*,192 L. Ed. 2d 609 (2015)[1] Just as the Plaintiff moved to intervene in *Obergefell* at the district court level, court of appeals level, and Supreme Court level, the intervening Plaintiff moves to intervene in this action as a member of the true minority class of

[1] *Zablocki v. Redhail*, 434 U.S. 374, 384 (1978) (fundamental right); *Cleveland Bd. of Educ. v. LaFleur*, 414 U.S. 632, 63940 (1974) (personal choice); *Loving v. Virginia*, 388 U.S. 1, 12 (1967) (existing right/individual right); *Lawrence v. Texas*, 539 U.S. 558 (2003) (intimate choice). In filing this motion to intervene, the intervening Plaintiff admits that she is copying from a lot the original plaintiff's prior motions to intervene and filings which are a matter of public record. The intervening Plaintiff sought permission from the plaintiff just days after he filed his lawsuit to marry a computer. The original plaintiff does not object to the intervening Plaintiff's motion to intervene and even provided some of his legal arguments to the intervening Plaintiff that he plans to make on behalf of himself as a machinists.

sexual orientation, since the intervening Plaintiff sustained the same injury as the Plaintiff, only the intervening Plaintiff only wants to marry an animal, not an object or another woman. (See Exhibits). Just as James Obergefell has the substantive due process right and equal protection right to marry John Arthur and force society recognize him as his lawfully wedded wife in flagrant violation of the community standards, obscenity codes, and first amendment establishment clause on the phony immutable trait basis, the intervening Plaintiff also has the same substantive due process and equal protection rights to marry an animal in order to force all of society to respect my sexual preferences and religious orthodoxy. Hypothetically, if "little Sally" is to grow up knowing that marrying "little Billy" or "little Mary" are equally viable options under the law, then she must also know that marrying a blow up doll, animal, or both little Billy and little Mary are equally viable options as well in accordance with the logic in *United States v. Windsor*, 133 S. Ct. 2675, 186 L. Ed. 2d 808 (2013), *Lawrence v. Texas,* 539 U. S. 558, 575 (2003), *and Obergefell v. Hodge*,192 L. Ed. 2d 609 (2015). Homosexuals are using the fact that the government has codified their denominations beliefs to unfairly recruit minors to join their sect as a prosthelization tool under the "love wins" narrative. Factually speaking, the intervening Plaintiff has the same procreative potential with an animal as James Obergefell has with John Arthur and Chris Sevier has with an animate object. In the same way that the state cannot bar homosexuality for being morally repugnant, the state cannot bar my request to marry an animal. *Lawrence*, 539 U.S. at 564, at 582. And in terms of "consent," marriage is an "individual right" and "personal choice" so "consent" does not even enter into the conversation. *Obergefell*,192 L. Ed. 2d at 3. Marriage is not a matter of contract. And even if marriage was contract matter, contacts are governed by state law, and state law is pre-empted by the United

States Constitution. So all who are floating that argument in defense legalization of homosexual ideology in order to self-justify their own subscription to moral relativism can go fish. Marriage is a matter that arises under the Constitution. *Obergefell* at 11(Majority). But marriage is not really governed by the 14th amendment, it is governed by the 1st amendment establishment clause.

America is a Nation that is built on the truth, not lies. Freedom comes from the truth. The Supreme Court in Obergefell, Lawrence, Windsor committed judicial malpractice and intellectual dishonesty by pretending that sexual orientation is based on "immutable traits" like race. *Obergefell* at 4 and 8 (Majority) and *Lawrence* at 566-583. (See the Declarations of Cothran and Quinlan that the Plaintiff filed). "Sexual appetites" are fluid and based on classical conditioning and the acting on personal feelings. Sexual orientation can be cultivated. Just as their is no "rape gene," there is no "gay gene."[2] And the legal basis for man-man, woman-woman, man-object, man-animal, and man-multiperson are all equal. To critique the legal basis for anyone of these is to critique the legal basis for all of the others.

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[2] There is no such thing as "gay people." There are only people. And President Lincoln was right all people are born equal. They are all born equally broken. But they do not all make the same lifestyle decisions and they do not all subject themselves to the same set of influences. Many people submit themselves to the influence of Islam and sincerely believe that shooting up an Orlando nightclub is objectively right, even though it is self-evident that it is not. There are people who get angry and act on their emotions and commit second degree murder. At their trial, they cannot assert, "your honor, I am innocent because I was born this way. I was born with anger inside of me and merely acted on that natural emotion in killing a provocateur." That defense would fail. The government does not release convicted inmates who committed second degree murder because they are worried that their children might be embarrassed about the decisions of their parents. Just like legislating morality does not work, attempting to legislate away shame does not work.

In seeking a marriage license with Clerk Kim Davis in Rowan County, on July 7, 2016, the intervening plaintiff self-identified as zoophile, as she is, which is merely one sect in the church of sexual orientation and postmodern individual western expressive relativism. Polygamy, machinism, zoophilia, and homosexuality are all denominations within the religion of postmodern individual relativism. While it is true that the Government cannot codify sexual orientation orthodoxy of any denomination under the 1st amendment pursuant to the "lemon test" (provided by Justice O'Conner) and "coercion tests" (authored by Justice Kennedy),[3] one thing for certain: different sects within the same religion cannot be treated differently by the government. [4] That is, the Court cannot show legal partiality to homosexuals, machinists, and polygamists but not zoophiles because it is "morally disapproving." The Plaintiff in this action is a machinist. He is not a zoophile like the intervening Plaintiff. By intervening in this action, the intervening Plaintiff can better assure that the interest of zoophiles are not left behind. The homosexuals only pretend to be tolerant when they are really not, by moving to intervene in this action as a zoophile, it will expose whether the Plaintiff actually believes in total tolerance or whether he is just engaging in the ends justify the means tactics. (The Intervening Plaintiff sought, and received permission from the Plaintiff to intervene; the intervening Plaintiff did not

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[3] The Majority in Obergefell was right. The Constitution is not silent on how marriage should be legally defined. All 50 states are legally prohibited from codifying any form of marriage other than the dictionary definition of man-woman marriage, which is fact based and neutral. All other forms of marriage are based on an identity narrative and unproven faith based assumptions that are implicitly religious. All other forms of marriage violate the first amendment under the coercion test and lemon tests. *Lynch v. Donnelly*, 465 U.S. 668, 687-94 (1984);; *Lee v. Weisman*, 505 U.S. 577 (1992);; *School District v. Doe*, 530 U.S. 290 (2000);; *County of Allegheny v. ACLU*, 492 U.S. 573 (1989)

[4] *McCreary Cnty, Ky. v. ACLU of Ky.*, 545 U.S. 844, 860 (2005); *Engel v. Vitale*, 370 U.S. 421, 431 (1962).

receive an answer back from the state as to whether intervention would be permitted.) Either marriage is a fundamental civil rights for all individuals to include those in the non-obvious classes of sexual orientation or the Supreme Court in Windsor, Obergefell, and Lawrence have perpetrated the greatest fraud in the history of America through "judicial putsch." *Obergefell* at 6 (Scalia Dissenting). If that is true, it is not surprising that (1) the Honorable Chief Justice Roberts stated, "Just who do we think we are"[5] and that (2) the Honorable Justice Scalia stated, "I write separately to call attention to this Court's threat to Democracy"[6] and that Justice Alito wrote "rule of law." *Obergefell* at 7 (Dissenting Alito). Like the original Plaintiff, the intervening Plaintiff is deeply concerned with the integrity of the Constitution and the public health, as well as my own personal civil rights.

The Intervening Plaintiff's Motion to Intervene is Timely

The intervening Plaintiff easily satisfy the Sixth Circuit's four requirements for intervention by right. More specifically, the intervening Plaintiff (i) submitted a timely application to intervene; (ii) demonstrated an interest in the impact of the Court's decision; (iii) the ability for the intervening Plaintiff's interest to not be protected by intervention if not permitted to intervene; and (iv) the intervening Plaintiff can demonstrate that their interest will be impaired if not allowed to intervene; See *United States of America et al vs. State of Michigan*, et al 424 Fd. 3d. 438, 443 (6th Cir. 2005), citing *Grubbs vs. Norris*, 870 Fd.343,345 (6th Cir. 1989).

BY PROHIBITING INTERVENTION ANOTHER WRONGFUL INTERPRETATION OF THE CONSTITUTION COULD GO FORWARD LEAVING MY NON-OBVIOUS CLASS OF SEXUAL ORIENTATION BEHIND

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[5] *Obergefell* at 3 (Roberts Dissenting)
[6] *Obergfell* at 1 (Scalia Dissenting)

One of the elements that the Court must consider in allowing intervention is whether the intervening Plaintiff's interest will be left behind. *Grubbs*, 870 Fd.343 at 4. The legal definition of marriage is no matter a state matter but is a Constitutional issue. The Obergefell Court found that marriage is a fundamental right of all individuals. But the Clerk's office has interpreted the Supreme Court's ruling to narrowly include on the largest minority in the suspect class of sexual orientation. Machinists have been left behind, and if the Plaintiff was to prevail on the merits the is a high probability that the clerk would turn around and deny zoophiles the fundamental right to marriage merely because they were not present in the litigation.

Imagine if during the 1960 civil rights movement, Black people filed a lawsuit seeking civil rights on the basis of race. Imagine that Hispanic people moved to intervene into that action so that they too were not discriminated on the basis of their race, but the blacks opposed the Hispanics intervention. In the end, the Court finds that the government cannot discriminate against blacks on the basis of race. Then imagine that the Hispanics file their own own separate lawsuit to ensure that they too are not discriminated on the basis of race and Red American Indians move to intervene in the action to make sure that they are also not discriminated against on the basis of their race. That is the kind of scenario we have on our hands.

Homosexuals (the largest minority sexual orientation class) were denied marriage license by the clerk's office in Kentucky and elsewhere. The homosexuals then filed a lawsuit seeking civil rights on the basis of their sexual orientation and identity narrative. The Plaintiff (a member of a non-obvious sexual orientation class moved relentlessly to intervene in their case so that the interest of his sect of sexual orientation would not be left behind. Now the intervening Plaintiff is

moving to intervene in the Plaintiff's action as an injured zoophile. Either all individuals deserve the fundamental right to marry based on their sexual orientation and identity narrative or the Court's have perpetrated the greatest fiction in the history of American Jurisprudence. *McDonald Santa Fe Trail Transp. Co.*, 427 U.S. 273, 27879, 96 S. Ct. 2574, 2578, 49 L. Ed. 2d 493 (1976). If marriage really is a fundamental right and sexual orientation is really a basis for civil rights, then the intervening plaintiff's marriage request is acceptable no matter how morally repugnant it appears to be.

The intervening Plaintiff's desire to legally marry an animal is at the very least legally equal to a woman's desire to marry another woman and a man's desire to legally marry an object. The Court does not get to fool around with semantics and menace words in advancing an agenda based on the private moral code of judges who are currently in power. The Courts have a duty to impartially enforce the Constitution and the rule of law.

The Intervening Plaintiff Meets the Requirements for Permissive Intervention

Rule 24(b) of the Federal Rules of Civil Procedure provides an alternative basis for the intervening Plaintiff's intervention in this action. Rule 24(b) states, in relevant part:

> Upon timely application anyone may be permitted to intervene in an action ...when an applicant's claim or defense and the main action have a question of law or fact in common. When a party to an action relies for ground of claim or defense upon any statute or executive order administered by a federal or state governmental officer or agency or upon any regulation, order, requirement or agreement issued or made pursuant to the statute or executive order, the officer or agency upon timely application may be permitted to intervene in the action. In exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties. Fed. R. Civ. P. 24(b). TA \s "Fed. R. Civ. P. 24"

To establish a viable case for permissive intervention, a proposed intervenor must show that its motion to intervene is timely made and that he or she alleges at least one question of law or fact

common to those already before the court. The court must then consider whether permitting intervention will cause any undue delay or prejudice to the existing parties, and balance any other relevant factors to determine whether intervention should be allowed. *United States v. Michigan*, 424 F.3d 438, 445 (6th Cir. 2005).

The Court should conclude that the interventing Plaintiff's motion to intervene is timely brought. The question to be answered in determining whether a motion to intervene is timely brought is not whether the claim of the proposed intervenor is timely asserted, a matter governed by the statute of limitations and the doctrine of laches, but rather how long the proceeding has been pending and the length of time the proposed intervenor waited before seeking to intervene after becoming aware of the factual and/or legal basis for doing so. *Heartwood, Inc. v. U.S. Forest Service,* Inc., 316 F.3d 694, 700-01 (7th Cir.) In this case, however, the parties have conducted no discovery. The Defendants have not responded to the original complaint. The Plaintiff has not returned proof of summons executed.

When a non-party to an action is granted leave to intervene in a case, the Court is permitting that person to become a party to the case, aligned as a plaintiff or defendant as his or her interests may indicate. *In re Willacy Co. Water Control & Imp. Dist. No.* 1, 36 F. Supp. 36, 40 (S.D. Tex. 1940); *First Nat. Bank in Greensburg v. M & G Convoy, Inc.*, 102 F. Supp. 494, 500 (D.C. Pa. 1952). My interest align with the Plaintiff's. The Plaintiff and the intervening Plaintiff sustained an identical inury. The narrow interpretation of Obergefell and the 14th amendment as applied to members of the true minority of sexual orientation was abitrary, exclusive, and Constitutionally unsound.

GIVEN WHAT IS AT STAKE INTERVENTION IS WARRANTED

Given what is at stake intervention is warranted. The question presented in this case is simply how must the states legally define marriage in light of the United States Constitution? There are three possible legal definitions of marriage that can be considered. The first option is to make the states legally define marriage between one man and one woman. This dictionary definition of marriage is Constitutional on all accounts because it based on (1) self-evident truth; (2) neutral facts; (3) "the way we are and the way things are."[7] This definition is not based on a self-justifying and coercive religious agenda to establish a moral relativism as our National religion in order to enable the disciples of that "orthodoxy" a platform to explain away the feelings of shame and inadequacy in order to attempt to feel morally superior. The second option exclusively includes man-woman, man-man, and woman-woman marriage. By Constitutional prescription under the 14th amendment, the second definition of marriage was handed down by the Supreme Court in *Obergefell v. Hodge*,192 L. Ed. 2d 609 (2015), making the legal definition of marriage a Federal question, not a state law matter. The current legal definition of marriage is grossly unconstitutional under 1st amendment establishment clause because it codifies homosexual religious "orthodoxy" in violation of the "lemon test"[8] and "coercive test."[9] The current definition of marriage is also unconstitutional because it treats different sects within the church of sexual orientation with different degrees of endorsement and

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[7] *Jones v. Hallahan*, 501 S.W.2d 588, 589 (Ky. 1973)(the secular dictionary definition of marriage is one man and one woman).

[8] *Lynch v. Donnelly*, 465 U.S. 668, 687-94 (1984)(lemon test)

[9] *Lee v. Weisman*, 505 U.S. 577 (1992); *School District v. Doe*, 530 U.S. 290 (2000); *County of Allegheny v. ACLU*, 492 U.S. 573 (1989)(coercion test)

favoritism.[10] Moreover, the current legal definition of marriage as interpreted by the state defendants is unconstitutional under the 14th amendment substantive due process and equal protection clauses because it arbitrarily excludes the individuals (like the Plaintiff and intervening Plaintiff) in the non-obvious classes of sexual orientation, who want to marry objects, multiple persons, and animals in step with their beliefs, sexual appetites, identity narrative, and personal feelings. Of the three options, the current definition of marriage is the most unconstitutional of them all for being overinclusive (it codifies coercive ideology, identity narratives, and unproven faith based assumptions that are implicitly religious establishing a national religion of moral relativism and it treats one denomination in the church of sexual orientation more favorably than other less popular sects) and for being underinclusive the 14th amendment (the definition arbitrarily excludes the true minority sects of sexual orientation from civil rights without any rational basis). The third option is for the Court to hand down a legal definition that includes *all* individuals and their sexual orientation, not just the largest minority (the homosexuals) and the majority (heterosexuals) of a sexual orientation suspect class. Like the second option, the third options violates the 1st amendment establishment clause under the "lemon test" and "coercive test" (because it codifies sexual orientation that is part of moral relativism ideology and imposes direct and indirect coercion on citizens). However, the third option does not violate the first amendment establishment clause insofar as different sects of the same religion under the church of sexual orientation, expressive individualism, and western postmodern relativism will be receive equal treatment by the government. Furthermore, the third option does not violate the 14th amendment due process and equal protection clause because it

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[10] *McCreary Cnty, Ky. v. ACLU of Ky.*, 545 U.S. 844, 860 (2005); *Engel v. Vitale*, 370 U.S. 421, 431 (1962).

provides civil rights to *all* people in accordance with their "individual right," "fundamental right," and "existing right" to marry that is bound in a "personal choice."[11] If gay marriage was ever really valid to being with under the Court's 14th amendment findings - and it likely was not - expanding civil rights to the true minority non-obvious classes of sexual orientation should cultivate more respect and dignity for the homosexual orthodoxy, not less.[12] Just because the Plaintiff and intervening Plaintiff belong to a less popular sect of sexual orientation does not make their individual demands to exercise their fundamental right less valid. The notion that "a bare . . . desire to harm a politically unpopular group cannot justify disparate treatment of that group" applies more to machinists, polygamists, and zoophiles than to homosexuals and heterosexuals at present. *Romer v. Evans,* 517 U.S. 620, 635 (1996).

Since the current definition of marriage is by far the most unconstitutional option, *Sevier v. Davis* 0:2016-cv-00080 (E.D. KY 2016) must inevitably be to *Obergefell v. Hodge*,192 L. Ed. 2d 609 (2015) what *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954) was to *Plessy v. Ferguson*, 163 U.S. 537 (1896) as a manifest Constitutional injustice that goes to the heart of our National identity is cured of Constitutional defect. Only this time, the Nation will not have to wait for a century to pass before a"decision" that has a "fundamental effect on [the] Court and its ability to uphold the rule of law" is corrected by this Honorable Court of the United States.[13]

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[11] *Zablocki v. Redhail*, 434 U.S. 374, 384 (1978) (fundamental right); *Cleveland Bd. of Educ. v. LaFleur*, 414 U.S. 632, 63940 (1974) (personal choice); *Loving v. Virginia*, 388 U.S. 1, 12 (1967) (existing right/individual right); *Lawrence v. Texas*, 539 U.S. 558 (2003) (intimate choice).

[12] *McDonald Santa Fe Trail Transp. Co.*, 427 U.S. 273, 27879, 96 S. Ct. 2574, 2578, 49 L. Ed. 2d 493 (1976)

[13] *Obergefell*,192 L. Ed. 2d 609 at 7. (Alito Dissenting). Sometimes, it takes more than one bite at the apple for the Courts to get it right apparently. After all, the problem with the world is the human heart and the second problem is our collective refusal to admit that. And Judges are

PART I

THE FIRST AMENDMENT ESTABLISHMENT CLAUSE REQUIRES ALL 50 STATES LEGALLY DEFINE MARRIAGE ONE WAY BY A DIFFERENT CONSTITUTIONAL PRESCRIPTION THAN THE ONE IMPOSED IN OBERGEFELL

A. Identifying The Fatal Logical And Legal Errors In Obergefell

In *Obergefell v. Hodge*, 192 L. Ed. 2d 609 (2015), the (1) Supreme Court, the (2) same-sex marriage Petitioners, and the (3) State Respondents all made an intellectually catastrophic mistake. They collectively engaged in the wrong Constitutional conversation in resolving how all states must legally define marriage. That is, they were looking at how to Constitutionally define marriage through the wrong Constitutional lens, approaching the matter through false analogies under the 14th amendment instead of examining the matter through the 1st amendment establishment clause under the lemon and coercive tests as they should have.[14] In the end, the judges in the majority in *Obergefell* found as to "question one" that there was no rational basis to preclude those who self-identify as homosexual from the fundamental, individual, and existing right to marry under the due process and equal protection clauses of the 14th amendment based on so called "immutable traits" homosexuals claim to have, and the dissenting justices argued in opposition that the states should have been allowed to individually define marriage in accordance

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human too. And it remains true that "to err is human to forgive divine." Alexander Pope - An Essay on Criticism

[14] (See Declaration of Cothran ¶ 1-50 and Quinlan ¶¶ 1-37). The reason why Justice Alito wrote, "I do not doubt that my colleagues in the majority sincerely see in the Constitution a vision of liberty that happens to coincide with their own" was because the majority was looking at the matters through the wrong Constitutional lens. *Obergefell* at 8 (Alito dissenting).

with the Democratic process.[15] Yet, both the majority and the dissent were dead wrong from a Constitutional standpoint because the government cannot codify homosexual and transgender religious ideology anymore than it can codify that all man-woman marriages must be conducted in the name of Buddha, Muhammad, or Jesus. Codifying homosexual orthodoxy does more than just "close minds" and "end debate,"[16] it alienates all of the people who subscribe to the values that this "Nation was founded"[17] on, which (1) reduces their participation in government, (2) stifles their speech, (3) compels social ostracism, and (4) dehumanizes them.[18] It also relegates those who have a more peculiar sexual appetite to second class citizens arbitrarily.

1. Identifying How The Obergefell Dissent Was Constitutionally Wrong

First, the dissent was completely wrong because all 50 states must have one National definition of marriage for the same reason that the second amendment provides the Nation with a uniform position on American's right to bare arms.[19] The Constitution is NOT "silent" on how marriage should be legally defined for all 50 states. The answer to how marriage should legally defined is found in the first amendment establishment clause.[20] In light of the first amendment

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[15] *Obergefell* at 4 (majority); *Obergefell* at 27 (Roberts Dissenting). As to question one, "whether the Fourteenth Amendment requires a State to license a marriage to individuals who self-identify as homosexual and who want to marry," the Supreme Court answered yes. Therefore, the state must also immediately issue licenses to individuals seeking to marry objects, animals, and multiple persons in accordance with their sexual orientation and civil rights.

[16] *Obergefell* at 27 (Roberts Dissenting)

[17] *Obergefell* at 17 (Thomas Dissenting).

[18] *Obergefell* see dissent in general or Roberts, Scalia, Thomas, and Alito.

[19] Amdt. 2. *Obergefell* at 2 (Scalia Dissenting)

[20] Justice Scalia was right about this: it must be "important" to all Americans who and what "rules" us. *Obergefell* at 2 (Scalia Dissent). And what "rules" us must be the Constitution. And

establishment clause, the right to define marriage never should have been left up to any of the state's the Democratic process or any set of Judges - federal or state - to being with. (That was superseding error, and if the Courts needs a plausible scapegoat to regain some of its own dignity, there it is.) The idea of the Constitution "was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts." *West Virginia Bd. of Ed.* v. *Barnette*, 319 U. S. 624, 638 (1943). The majority on the Court was correct in suggesting that a uniform Constitutional prescription of the legal definition of marriage was in order.[21] *Obergefell* Court did not wrongfully disenfranchise the citizens - to suggest otherwise is far too simplistic. Additionally, leaving matters up to the states violates the fundamental right of travel for homosexuals and Christians alike because it causes individuals to be confined to the states where the communities share their ideology. *Shapiro* v. *Thompson,* 394 U.S. 618, 629 (1969). Compare the ideological demographics of London Kentucky to San Francisco California. The dissent was wrong in its legal analysis in suggesting that the individual states should be allowed to define marriage as they see fit.

2. Identifying How The Obergefell Majority Was Constitutionally Wrong

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the first amendment establishment clause really does bar all forms of marriage other than man-woman marriage. So that should end the "egotistic" "judicial putsch." *Obergefell* at 6-7 (Scalia Dissenting). The Honorable Chief Justice need not be "disheartened." *Obergefell* at 2 (Roberts Dissenting)

[21] For clarity purposes, since the *Obergefell* Court defined marriage through Constitutional prescription. Currently, these matter are no longer an issue of state law, but if the Court believes that the first amendment bans all other forms of marriage, then the Court should effectively reverse *United States v. Windsor,*133 S. Ct. 2675, 186 L. Ed. 2d 808 (2013) and *Obergefell v. Hodge,*192 L. Ed. 2d 609 (2015) reviving DOMA and the state marriage bans. The Court should also reverse part of the *Lawrence v. Texas*, 539 U.S. 558 (2003) and all other similar cases insofar as it falsely found that sexual orientation surrounded "immutable traits." (See Declarations of Cothran ¶¶ 1-50 and Quinlan ¶¶ 1-37).

The majority in *Obergefell* was equally Constitutionally wrong as the dissent. *Obergefell* at 1-28 (Majority). Since the first amendment precludes the Federal Government under the 5th Amendment and the state government under the 14th amendment from codifying other forms of marriage because doing so violates the first amendment establishment clause, an "originalism" approach, not a "living Constitution" approach, must be undertaken in resolving the question presented.[22] At oral argument, Justice Sotomayor, who voted in favor of same-sex marriage, quipped from the bench, " we do not live in a pure Democracy. We live in a Constitutional Democracy." Justice Sotomayor is right.[23] The Constitution is not silent on defining marriage because it implicitly reference marriage in the first amendment. Under the first amendment establishment clause no state can codify "gay marriage" without (1) violating the lemon test for establishing postmodern western individual relativism that flows from the enlightenment

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[22] See *Obergefell* at 7 (Thomas Dissenting) on originalism. See *Obergefell* at 26 (Roberts Dissent) quoting "Rehnquist, The Notion of a Living Constitution, 54 Texas L. Rev. 693, 700 (1976)."

[23] Defining marriage is a first amendment matter. By the holding in *Obergefell*, all other forms of marriage should be nullified and void from legal recognition. The *Obergefell* Court stated: "Of course, the Constitution contemplates that democracy is the appropriate process for change, so long as that process does not abridge fundamental rights. Last Term, a plurality of this Court reaffirmed the importance of the democratic principle in *Schuette* v. *BAMN*, 572 U. S. ___ (2014), noting the "right of citizens to debate so they can learn and decide and then, through the political process, act in concert to try to shape the course of their own times." *Id.*, at ___ – ___ (slip op., at 15–16). Indeed, it is most often through democracy that liberty is preserved and protected in our lives. But as *Schuette* also said, "[t]he freedom secured by the Constitution consists, in one of its essential dimensions, of the right of the individual not to be injured by the unlawful exercise of governmental power." *Id.*, at ___ (slip op., at 15). Thus, when the rights of persons are violated, "the Constitution requires redress by the courts," notwithstanding the more general value of democratic decisionmaking. *Id.*, at ___ (slip op., at 17). This holds true even when protecting individual rights affects issues of the utmost importance and sensitivity. *Obergefell at* 24 (the Majority).

tradition as the National Religion;[24] (2) failing the coercion test in that it mandates an religious ideology predicated on unproven faith based assumptions, naked assertions, and identity narratives;[25] and (3) arbitrarily treating one sect of the church of sexual orientation and postmodern relativism more favorable than other denominations.[26]

Therefore, here is the correct Constitutional answer on how all 50 states must define marriage, and the disciples of moral relativism who are set on using our government to give credence to that ideology are not going to be happy. The first amendment tells us that all other prospective legal forms of marriage other than "man-woman marriage" are unconstitutional and not recognizable by either the state and federal governments (to include the Military) because they are based on (1) unproven faith based assumptions, (2) naked assertions, and (3) self-assertive identity narratives that are implicitly religious. The monumental intellectual lie advanced by the majority of justices in *United States v. Windsor*, 133 S. Ct. 2675, 186 L. Ed. 2d 808 (2013), *Lawrence v. Texas,* 539 U. S. 558, 575 (2003), *and Obergefell v. Hodge*, 192 L. Ed. 2d 609 (2015) is the idea that sexual orientation is based on "immutable traits" and "genetics, instead of fluidity and classical conditioning as the American Psychiatric Association and countless mental health professionals have found.[27] (See Declaration of Cothran ¶¶ 1-50 and

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[24] *Lynch v. Donnelly*, 465 U.S. 668, 687-94 (1984).

[25] *Lee v. Weisman*, 505 U.S. 577 (1992); *School District v. Doe*, 530 U.S. 290 (2000); *County of Allegheny v. ACLU*, 492 U.S. 573 (1989).

[26] *McCreary Cnty, Ky. v. ACLU of Ky.*, 545 U.S. 844, 860 (2005); *Engel v. Vitale*, 370 U.S. 421, 431 (1962).

[27] The majority in *Obergefell* continues the phony immutable trait narrative stating, ""immutable nature' dictates that same-sex marriage is their only real path to this profound commitment." In light of the declarations of Greg Quinlan ¶¶ 1-37 and Charlene Cothran ¶¶ 1-50 the five justices in the majority should be held accountable for judicial malpractice.

Quinlan ¶¶ 1-37)(See the Amicus brief filed by PFOX in Obergefell exhibit). Just as there is no "rape gene," there is no "gay gene." (Cothran ¶¶ 1-50 and Quinlan ¶¶ 1-37). The majority errored in falsey labeling "homosexuals" as a people group instead of a "religious sect" under the multi-denominational church of sexual orientation, expressive individualism, and western postmodern individual relativism. Furthermore, the fact that homosexual orthodoxy as well as the dogma from the other denominations of sexual orientation happens to violate the obscenity statutes and community standards of decency - alone - gives the state a compelling interest the right ban all other forms of marriage from government recognition as unprotected obscene speech in order to protect minors. *Miller v. California,* 413 U.S. 15, 3034 (1973). Respectfully, although moral relativist have infiltrated the bench like a virus, they should remember that to "simply adjusts the definition of obscenity to social realities" has always failed to be persuasive before the Courts of the United States. .[28]

B. HOMOSEXUALITY IS A RELIGIOUS ORTHODOXY AND THE GOVERNMENT CANNOT CODIFY HOMOSEXUAL IDEOLOGY WITHOUT OFFENDING THE COERCION AND LEMON TESTS UNDER THE FIRST AMENDMENT ESTABLISHMENT CLAUSE

"To say that doctrine does not matter is a doctrine." - Tim Keller
https://www.youtube.com/watch?v=Ehw87PqTwKw

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[28] *Ginsberg v. New York,* 390 U.S. 629, 639–40, 88 S.Ct. 1274, 20 L.Ed.2d 195 (1968);; *Mishkin v. State of New York*, 383 U.S. 502, 509, 86 S.Ct. 958, 16 L.Ed.2d 56;; *Bookcase, Inc. v. Broderick*, supra, 18 N.Y.2d, at 75, 271 N.Y.S.2d, at 951, 218 N.E.2d, at 671;; *Ashcroft v. Am. Civil Liberties Union*,535 U.S. 564, 122 S. Ct. 1700, 152 L. Ed. 2d 771 (2002) Homosexual orthodoxy is effective obscenity in action and the obscene speech is not protected. *Miller v. California,* 413 U.S. 15, 3034 (1973). Acting as an inept and shallow creature of culture, the majority on the court in *Obergefell v. Hodge*,192 L. Ed. 2d 609 (2015), disregarded the fact that there are more than one sect and denomination in the church of sexual orientation and favoring one over the others is patently unconstitutional the under establishment clause. People who self-identify as homosexuals are not "mentally ill" in the same way that people who self-identify as Muslims who conduct suicide attacks are not. They are just engulfed in one set of truth claims and religious ideology that they personally feel is morally superior, regardless of the fact that elementary teleological and cosmological (inductive and deductive) scrutiny under reasonable personal objective standards of the plausibility of the faith based premises suggests otherwise.

What the prior Courts and liberal media, who are under the influence of the religion of moral relativism, fail to see and understand, and what this Constitutional Courts must now come to terms with now is that, like Islam, **"homosexuality" is a religion**![29] See Declaration of Cothran ¶¶ 1-50 and Quinlan ¶¶ 1-37.[30] Homosexuality is an indoctrinating orthodoxy based on

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[29] All religion amounts to is a set of answers to the greater questions. It is a set of answers to the greater questions. A set of answers to who we are and what we should be doing as humans. Every time any of us enter the public square to answer these questions, we bring a set of unproven faith based assumptions to the table that are at the very least semi-religious. It is inequitable to single out institutionalized religions. Everybody has a worldview based on unproven faith based assumptions. To suggest that all truth claim are equal and therefore no doctrine is a superior is itself a truth claim that is vying for superiority amongst all of the rest. To say that moral doctrine does not matter as a basis for law is a moral doctrine, which is circular. A major take away for the public from Obergefell and Windsor is that people who are intolerant of intolerant people are intolerant. People who are judgmental of judgmental people are judgemental. Justice Kennedy was incredibly dogmatic about not being dogmatic. Relativist on the bench have to assume the very thing they hope to deny in order to deny it. They are not driven by logic and reasoning but by emotions that ultimately make them appear to be laughable. No one actually lives like truth is relative, but if truth really was relative, it would mean that the relativists positions were also relative, which means that no one really needs to listen to them. Perhaps they are the ones who are better off not talking if dignity is really what's most important to them.

The reason why in *Van Orden v. Perry*, 545 U.S. 677 (2005), Justice Breyer in his concurrence stated that "the Establishment Clause does not compel the government to purge from the public sphere all that in any way partakes of the religious" because "[s]uch absolutism is not only inconsistent with our national traditions, but would also tend to promote the kind of social conflict the Establishment Clause seeks to avoid" was because he knew as does the current Supreme Court justices in *Obergefell* at 29 that western postmodern moral relativism, expressive individualism, and homosexuality are all part of an overlapping and interconnected religion. So to favor moral relativism over Christian morality when creating law is merely an is merely a malicious way to place one private moral code on top of another. It just so happens to the relevant that moral relativism, like Islam, is a disastrous basis for law. See the Arab Spring and the eight years under President Obama - where the hallmark of his legacy is that people do not know which bathroom to use.

[30] Like Islam, homosexual orthodoxy is based on pride and self-assertion. Both Islam and homosexual orthodoxy lead to a sense of moral superiority that creates a slippery slope in the heart that leads to its subscribers to marginalize, ignore, and ultimately violently oppress anyone whose beliefs are different.

unproven faith based assumptions and naked assertions that are implicitly religious.[31] The Truth claims floated by the LGBT church such as (1) "people are born gay;" (2) "people who self-identify as gay have gay genes;"[32] (3) "sexual orientation is a basis for suspect classification in the same way that race was;" (4) "sexual orientation is immutable like skin pigmentation;" (5) "a man can be a wife and a woman can be a husband" (6) "people who believe that homosexuality is immoral are bigots;" (7) "although homosexuality was illegal until recently, it is not objectively moral;" (8) "traditional morality as a basis of law should not be used but morality that flows from the enlightenment tradition should;" (8) "freedom is the absence of the truth and all constraints;" (8) "love is love;" (9) "love wins;" (10) "gay marriage is factually

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[31] Sexual identity comes from the feelings that person chooses. Homosexuality ideology as a basis for law is predicated on unproven faith based assumptions that are implicitly religious, just as machinism, polygamy, and zoophilia ideology is. The intervening Plaintiff - like the original Plaintiff - admits that the Courts nor the states can change the original legal definition of marriage to include the religious doctrine of homosexuals, machinists, polygamists, zoolaphiles without violating the 1st amendment establishment clause of the United States Constitution. Although the Plaintiff wants to legally marry an inanimate object, unlike the homosexuals, he only wants to do so if it is legally valid. The same goes for the intervening Plaintiff, only she wants to marry an animal. The words of Justice Roberts in his dissent that he read from the bench in defiance of the decision in *Obergefell* are terrifying: "If you are among the many Americans—of whatever sexual orientation—who favor expanding same-sex marriage, by all means celebrate today's decision. Celebrate the achievement of a desired goal. Celebrate the opportunity for a new expression of commitment to a partner. Celebrate the availability of new benefits. But do not celebrate the Constitution. It had nothing to do with it." *Obergefell* at 29 (Roberts Dissent).

[32] Just as there is no proof of a "rape gene." There is no hard proof of a "gay gene." Therefore, we have to take the idea that people are gay on the basis of faith. And the government cannot codify this faith. This is especially true since there are thousands of examples of people (like Greg Quinlan ¶¶ 1-37 and Charlene Cothran ¶¶ 1-50) who self-identified as homosexual, who became straight. Not only is homosexuality a religion, it is a phony one like Islam. Homosexuality wants to be the religion of love but it is not, just like Islam wants to be the religion of peace but it is not. Homosexuality is the opposite of love, just as Islam is the opposite of peace. That is, not just how the Plaintiff feels about it that is what the evidence shows. These religions don't work, and are rife with lies. But even if they were not, the Government cannot codify them.

equal to actual marriage" are all unproven faith based assumptions that are implicitly religious and based on naked assertions in an attempt to justify sexual behavior and lifestyle that is otherwise objectively obscene and cannot be recognizable by the government on multiple compelling grounds. The fact that the majority of states voted to ban the legal codification of homosexual ideology - alone - insurmountably demonstrates that homosexuality lifestyle violates the community standards and amounts to obscenity in action. The states have a compelling interest to proactively stifle unprotected obscene speech. *Miller v. California,* 413 U.S. 15, 3034 (1973).[33]

The bottomline is that our government cannot legally memorialize homosexual ideology into law without expressly violating the first amendment establishment clause.[34] Justice

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[33] "Obscenity is not within the area of protected speech or press." *Court v. State*, 51 Wis. 2d 683, 188 N.W.2d 475 (1971) vacated, 413 U.S. 911, 93 S. Ct. 3032, 37 L. Ed. 2d 1023 (1973) and abrogated by *State v. Petrone*, 161 Wis. 2d 530, 468 N.W.2d 676 (1991);; *State v. Weidner*, 2000 WI 52, 235 Wis. 2d 306, 611 N.W.2d 684;; *Ebert v. Maryland State Bd. of Censors*, 19 Md. App. 300, 313 A.2d 536 (1973). Obscenity is not protected expression and may be suppressed without a showing of the circumstances which lie behind the phrase "clear and present danger" in its application to protected speech. *Roth v. United States*, 354 U.S. 476, 485, 77 S.Ct. 1304, 1309, 1 L.Ed.2d 1498. *United States v. Gendron*, S24:08CR244RWS(FRB), 2009 WL 5909127 (E.D. Mo. Sept. 16, 2009) report and recommendation adopted, S2 4:08CR 244 RWS, 2010 WL 682315 (E.D. Mo. Feb. 23, 2010);; *Chapin v. Town of Southampton,* 457 F. Supp. 1170 (E.D.N.Y. 1978);; *Sovereign News Co. v. Falke*, 448 F. Supp. 306 (N.D. Ohio 1977);; *City of Portland v. Jacobsky*, 496 A.2d 646 (Me. 1985).

[34] The First Amendment, as made applicable to the states by the Fourteenth and the Federal Government by the 5th amendment commands that the state and federal actors "shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. . . ." *Murdock v. Pennsylvania,* 319 U.S. 105 (1943). The Court in *Everson v. Board of Ed. of Ewing,* 330 U.S. 1 (1947) stated: "the "establishment of religion" clause of the First Amendment means at least this: Neither a state nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. Neither can force nor influence a person to go to or to remain away from church against his will or force him to profess a belief or disbelief in any religion. No person can be punished for entertaining or professing religious beliefs or disbeliefs, for church attendance or non-attendance." Religion does not just include institutionalized religions like Christianity, Wicca, Judaism, and Islam.

Kennedy, who is a priest of moral relativism and who has an emotional problem with the innate convicting qualities of Christianity, knows better than most that "Congress shall make no law respecting an establishment of religion . . . ." U.S. CONST. amend. I. [35] In the late 1980s, author of the *Obergefell* opinion, Justice Kennedy, himself, put forward the concept of "coercion" as the gauge for an Establishment Clause violation. No branch of government can include any other

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Religion is nothing more than a set of unproven answers to the greater questions regarding who humans are and what we should be doing. Homosexuality is an orthodoxy that is part of the church of moral relativism. A church is just organized group of like minded believers who agree that a certain set of unproven faith based assumptions are superior and correct. Faithful subscribers to religion build their identity on ideology that has to be taken on faith. National Center for Transgender Equality (NCTE), Equality Federation, National LGBTQ Task Force, Victory Fund, Point Foundation, GLAAD, are churches of the homosexual ideology. Our Government cannot make public and private citizens have to honor the church of moral relativism worldview on marriage, especially since it involves conduct that violates the obscenity standards and was until recently illegal. See *Bowers* v. *Hardwick*, 478 U. S. 186,

[35] In *Obergefell*, the majority writes, "[the homosexual] petitioners seek legalized marriage for themselves because of their [quest to make everyone in society] respect [their religious orthodoxy]." at 1. There is a baseline requirement of governmental neutrality when it comes to codifying religion. See *Mitchell v. Helms*, 530 U.S. 793, 839 (2000). A conflict arises between the establishment clause and government speech whenever the government adopts as its own any religious speech. *Pleasant Grove City, Utah v. Summum*, 555 U.S. 460 (2009); *Van Orden v. Perry*, 545 U.S. 677 (2005). Under the relatively new government speech doctrine, the government has the constitutional power to "speak for itself." Bd. of Regents of *Univ. of Wis. Sys. v. Southworth*, 529 U.S. 217,229 (2000). For example, President Obama and Loretta Lynch can go to the media and falsely say that sexual orientation is based on immutable traits and that the gay civil rights movement parallels the racial civil rights one, when they know it is false. Their false narratives would be government speech. And for instance, moral relativist Justices can be on the bench, they just cannot be allowed to enshrine their private moral code, listen to, or taken seriously.

In other words, just as every U.S. citizen is entitled to speak freely, the U.S. government is entitled to have and express its own opinions. Of course, this doctrine is subject to some limitations, notably the Establishment Clause. See, e.g., *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819 (1995) (differentiating private religious speech, which is protected under the Free Exercise clause, from government speech endorsing religion, which is prohibited under the Establishment clause); see also Summum, 555 U.S. 460.

form of marriage in the legal definition because it violates the "coercion test" under a "direct coercion" and "indirectly coercion" analysis. *Lee v. Weisman*, 505 U.S. 577 (1992);[36] *School District v. Doe*, 530 U.S. 290 (2000);[37] *County of Allegheny v. ACLU*, 492 U.S. 573 (1989). [38]

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[36] ""The government may no more *use* social pressure to enforce [homosexual] orthodoxy than it may use more direct means." Lee, 505 U.S. at 594 (emphasis added). The majority in *United States v. Windsor*,133 S. Ct. 2675, 186 L. Ed. 2d 808 (2013), and *Obergefell v. Hodge*, 192 L. Ed. 2d 609 (2015) are using social pressure by calling objectors "bigots" and they imply a comply or else tone, which Defendant Davis got to experience, when she was sent to jail for not converting. The *Obergefell* Court stated: Many who deem same-sex marriage to be wrong reach that conclusion based on decent and honorable religious or philosophical premises, and neither they nor their beliefs are disparaged here." But tell that to Kim Davis as she was sitting in jail. The Court's coercion test as applied in *Lee v. Weisman* and *Santa Fe Independent School District v. Doe*, 137 the government has behaved coercively when the negative social sanction is a reasonably foreseeable consequence of requiring religious dissenters to make the choice in question.

[37] In the 2000, case of *Santa Fe Independent School District v. Doe*, 530 U.S. 290 (2000) the Court held that a student-delivered prayer at a high school football game fell afoul of the Clause because, inter alia, the prayer coerced potentially dissenting students into participating. The codification of homosexual ideology makes thousands of government employees and students effectively have to pray to the government and adopt the religion of moral relativism, which is predicated on unproven faith based assumptions and involves a private moral code that objectively offends community standards and the obscenity statutes. The pledge of allegiance is primarily patriot and not religious under *Myers v. Loudon County Public Schools*. 418 F.3d 395, 406-08 (2005), but the codification of the religion of homoexuality is absolutely a move to by moral relativist to attempt to establish their private moral code as supreme. There is nothing patriotic about homosexual orthodoxy that was once illegal. There is nothing patriotic about unprotected harmful obscene speech, which homosexuality is. Homosexual ideology, like machinism, polygamy, and Christianity, is not morally neutral, and is predicated on a private moral code that is far from secular. A statute of the Ten Commandments in *Van Orden v. Perry* was not constitutionally invalid because it evince a valid secular purpose that "commemorated the 'people, ideals, and events that compose Texan identity.'" *Van Orden v. Perry*, 125 S. Ct. 2854 (2005). Gay marriage is not only based on an unprotected orthodoxy, it amounts to obscenity in action which is itself harmful speech, which is not protected.

[38] Under *County of Allegheny v. ACLU*, 492 U.S. 573 (1989), proof of direct coercion is not a necessary component of a successful Establishment Clause claim. Unconstitutional coercion, however, may also be indirect, and Justice Kennedy seemed to argue here that once the idea of indirect coercion is incorporated, coercion does become the "touchstone" of an Establishment Clause violation. No one can deny that the codification of homosexual religious dogma has lead to massive amounts of indirect coercion. The majority's assurances to those who find

Evidence of foreseeable "direct coercion" recognized by the majority is readily identifiable all throughout the *Obergefell* opinion, and the coercion continues to be felt all around the Country afterwards.[39] A "chilling effect" under the free speech clause has been created by the judicial malpractice in monumental cases like *Windsor* and *Obergefell* as (1) Christian clerks have been

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homosexual religion to be objectively obscene and immoral in their majority opinion in Obergefell have proven over and over again since that decision to be shallow, hollow, and patently false.

[39] It was culturally and imperialistically arrogant for the *Obergefell* court to think that people in this country would water down their values to enable a lifestyle that is objectively subversive to human nature. And "pride, we know, goeth before a fall." *Obergefell* at 9 (Scalia Dissenting). Within the opinion, foreseeable coercion following the codification of homosexual religion is all over the place. For example, the Honorable Justice Thomas states: In our society, marriage is not simply a governmental institution; it is a religious institution as well. *Id.*, at 7. Today's decision might change the former, but it cannot change the latter. It appears all but inevitable that the two will come into conflict, particularly as individuals and churches are confronted with demands to participate in and endorse civil marriages between same-sex couples. The majority appears unmoved by that inevitability." Meanwhile, it was Justice Kennedy who invented the coercion doctrine. Apparently, he only likes to break out his test if Christianity is on the chopping block and not his preferred religion of moral relativism. The moral relativist on the bench are using their position in government to wage their own jihad in hopes of establishing a caliphate of moral relativism.

In the Establishment Clause context, the Supreme Court appears to assume that state coercion is never justified and that it is always an unconstitutional violation of a citizen's rights. In evaluating a claim under the coercion test, the Court does not ask: "Is this a case in which state coercion is justified or not?" Instead, it assumes that religious-based coercion by the state is per se unconstitutional. If the state forces citizens to make a choice between religion and nonreligion and weights that choice by imposing a sanction for choosing one way or another, then the state has always, by definition, violated the Clause." *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 312 (2000). The codification of gay marriage forces all state officials and private citizens to enable and support an ideology and lifestyle that millions if not the absolute majority believe would be enabling evil - not sentimental, whimsical, shallow, and self-justifying ideas about sexually exploitative love. The Court cannot possibly expect the Christians in government, like Kim Davis, to cowardly roll over and engage in "go along get along" in order to win the approval of moral relativists. In opposing Hitler's Third Reich, Dietrich Bonhoeffer stated, "silence in the face of evil is itself evil: God will not hold us guiltless. Not to speak is to speak. Not to act is to act." Those types of principles, like our Constitution, are transcultural.

put in jail (Kim Davis),[40] as (2) Christian Judges have been subjected to phony ethics hearings (Judge Roy Moore);[41] as (3) Christian law professors have been the target of social ostracism campaigns (Carl Swain),[42] as (4) ex gays are violently oppressed and (Greg Quinlan);[43] as (5) Christian florists,[44] (6) Christian bakers,[45] (7) Christian ranchers[46] have been hauled into civil court for not adequately paying homage to the Nationally recognized homosexual dogma. *United States v. Windsor*, 133 S. Ct. 2675, 186 L. Ed. 2d 808 (2013) and *Obergefell v. Hodge*, 192 L. Ed. 2d 609 (2015). There is a majority of people in the United States who do not want to enable an obscene homosexual lifestyle that was deemed to criminalized by this country for good cause until *Lawrence v. Texas*, 539 U.S. at 563 and remains illegal in a litany of well developed nations.[47] The idea that codifying homosexual orthodoxy poses "no risk of harm" to "third

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[40] Kim Davis chooses jail.
http://www.nytimes.com/2015/09/04/us/kim-davis-same-sex-marriage.html?_r=0;

[41] The Honorable Judge Roy Moore suspended from office: Alabama chief justice faces removal over gay marriage stance
http://www.al.com/news/index.ssf/2016/05/alabama_chief_justice_roy_moor_10.html

[42] Now at Vanderbilt Conservative Professor targeted by offended student.
http://www.infowars.com/now-at-vanderbilt-conservative-professor-targeted-by-offended-students/

[43] Gays Hating Ex-Gays: Wayne Besen's Verbal Assault on Greg Quinlan
http://americansfortruth.com/2009/04/13/gays-hating-ex-gays-wayne-besens-verbal-assault-on-greg-quinlan/

[44] Then I was sued: read passionate defense from grandma florist sued for refusing to service gay wedding.
http://dailycaller.com/2015/11/11/read-passionate-defense-from-grandma-florist-sued-for-refusing-to-service-gay-wedding/

[45] Baker owners refuse to pay damages in gay wedding cake case.
http://www.foxnews.com/us/2015/10/01/oregon-bakery-owners-refuse-to-pay-damages-in-gay-wedding-cake-case.html

[46] Judge fines Christian farm owners for refusing to host gay wedding.
http://www.theblaze.com/stories/2014/08/21/judge-fines-christian-farm-owners-13000-for-refusing-to-host-gay-wedding/

[47] The codification of sexual orientation orthodoxy is having a "chilling effect" effect on the rights protected by the Free Speech Clause. In that case, the Free Speech doctrines of vagueness

parties" is laughably dishonest and has been relentlessly disproven following *Obergefell* to the point that it makes the five Justices in the majority look moronic, out of touch with reality, and worthy of criminal prosecution for treason. *Obergefell* at 27 (Majority Opinion) The same sex marriage laws are not merely "indirectly coercive" but are"directly coercive" in all respects for millions of public officials and private citizens, and the most disturbing part is that the majority on the Court in *Obergefell* were "unmoved by that inevitability."[48] That judicial malpractice makes them complicit in racketeering in obscenity under 18 U.S. Code §§1961-1968 (1461-1465). The Senate Judiciary should impeach all five Judges for a breach of their fiduciary responsibility under the Constitution and for deliberate judicial misconduct that is so outrageous that the Honorable Justice Roberts declared in his dissent "just who do we think we are"[49] and the Honorable Justice Scalia stated, "I write separately to call attention to this Court's threat to American democracy."[50] The simple fact is that Americans cannot tolerate a Court with justices who behave like this. There is too much at stake - especially for minors - who have been crushed by the intellectual dishonesty due to a refusal to think in matters relating to sex, morality, and Constitutional integrity.[51] The United States cannot afford to have justices on the bench who

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and overbreadth apply. See, e.g., DANIEL FARBER, THE FIRST AMENDMENT 49-53 (2d ed. 2002) (discussing Supreme Court's use of vagueness and overbreadth doctrines to address "chilling" effects).

[48] http://adflegal.org/detailspages/press-release-details/sermons-on-biblical-sexuality-illegal-in-iowa

[49] *Obergfell* at 3 (Roberts Dissenting)

[50] *Obergfell* at 1 (Scalia Dissenting)

[51] By codifying homosexual orthodoxy, the Government is effectively making all of our citizens pray to it, as if we are now communist Russia. *Myers v. Loudon County Pub. Sch.*, 418 F.3d 395, 407 (4th Cir. 2005). Like a robber who says "give me your money, or I'll take your life," the by codifying homosexual orthodoxy, the government has imposed on all citizens - to include minors - a duty to pay homage to a new private moral code and exclusive religious worldview at

ignore the Constitution for selfish reasons and lack the ability to define what justice even is under an an objective standard. The American people are being hoodwinked by a lawless Federal Judiciary.

C. THE ORIGINAL LEGAL DEFINITION OF MARRIAGE WAS NOT CREATED FOR RELIGIOUS REASON BUT FOR IRRELIGIOUS ONES. HOMOSEXUALS AND MORAL RELATIVIST BELIEVERS HAVE USED THE GOVERNMENT TO ESTABLISH THE SUPREMACY OF THEIR ORTHODOXY IN A WAY THAT IS INTELLECTUALLY DISHONEST AND UNCONSTITUTIONAL UNDER THE FIRST AMENDMENT ESTABLISHMENT CLAUSE IN A DESTRUCTIVE ATTEMPT TO LEGISLATE AWAY THEIR FEELINGS OF SHAME AND INADEQUACY AT THE EXPENSE OF COMMUNITY STANDARDS, DECENCY, AND THE FREEDOM OF EXPRESSION

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the expense of the community standards and other traditional belief systems that have been around for "millennia" and that "the Nation was built on" or they will face criminal sanction, civil liability, and social ostracism. *Obergefell* at 17 (Thomas Dissenting). The depth and degree of social sanctions on religious dissenters of the sexual orientation religion has proven to be incalculable and horrific. More than that the codification of the religion of homosexuality core ideology has cultivated a public health crisis and widespread division. To suggest that the codification of homosexual ideology due to intentionally intellectual dishonesty of the majorities in *United States v. Windsor*,133 S. Ct. 2675, 186 L. Ed. 2d 808 (2013), *Lawrence v. Texas*, 539 U. S. 558, 575 (2003), *and Obergefell v. Hodge*,192 L. Ed. 2d 609 (2015) will be the true legacy of the five moral relativist on the bench. Under Obergefell, freedom has been greatly eroded to the point that the Judiciary looks downright stupid, and as if the Courts literally lack the ability to objectively tell the difference between "right and wrong" and "real and fake." The Court's power was greatly weakened by *Obergefell*. As Justice Roberts stated: "The legitimacy of this Court ultimately rests "upon the respect accorded to its judgments." *Republican Party of Minn. v. White*, 536 U. S. 765, 793 (2002) (KENNEDY, J., concurring) and "The truth is that today's decision rests on nothing more than the majority's own conviction that same-sex couples should be allowed to marry because they want to, and that "it would disparage their choices and diminish their personhood to deny them this right." Whatever force that belief may have as a matter of moral philosophy, it has no more basis in the Constitution than did the naked policy preferences adopted in Lochner. See 198 U. S., at 61. *Obergefell* at 19 (Roberts Dissenting) By being punch drunk on the unexamined assumption of the superiority of our cultural moment, like the Courts were in *Dred Scott v. Sandford*, 60 U.S. 393 (1857) and *Lochner v. New York*, 198 U. S. 45, 76 (1905) were, the Courts in *United States v. Windsor*,133 S. Ct. 2675, 186 L. Ed. 2d 808 (2013), *Lawrence v. Texas*, 539 U. S. 558, 575 (2003), and *Obergefell v. Hodge*,192 L. Ed. 2d 609 (2015) have perpetrated the greatest fraud on the American people since the inception of American Jurisprudence.

In terms of motive, one thing that Friedrich Nietzsche, Karl Marx, and Jesus Christ all had in common is that they put an emphasis on evaluating the intentions of the heart. If these three can all agree on something, the probability of it being true just has to be high. The motive behind DOMA and the state's marriage bans that were struck down in *Windsor* and *Obergefell* must be considered. The evidence shows that DOMA and the marriage bans passed were not designed to establish "Christian marriage"[52] or a dignity interest in a set of beliefs. Instead, the evidence suggests that DOMA and the marriage bans were created to prevent moral relativist from using government to codify their personal religious ideology lodged in expressive postmodern western individualism that comes out of the enlightenment tradition.[53] These well founded fears by a majority of Americans and Congress became reality in *Windsor* and *Obergefell*, by zealous Judges who also personally subscribe to the private religious orthodoxy of

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[52] Even if the traditional legal definition of marriage violated the establishment clause and it does not "the government is also free to adopt other 'policies of accommodation, acknowledgment, and support for religion' that are 'deeply embedded in the history and tradition of this country' without violating the Establishment Clause." *Marsh v. Chambers*, 463 U.S. 783 (1983). *When the Exception Becomes the Rule, supra* note 10, at 1075. *But see* Lund, *supra* note 1, at 980 (concluding that although legislative nonsectarian prayer is deeply rooted in our country's history, the cost of maintaining it is too high as it causes many hidden "perils of apparently benign religious endorsements"). Man-animal marriage is a as equally not part of American tradition as man-man and woman-woman marriage.

[53] As the *Obergefell* Court confessed: "In 1993, the Hawaii Supreme Court held Hawaii's law restricting marriage to opposite-sex couples constituted a classification on the basis of sex and was therefore subject to strict scrutiny under the Hawaii Constitution. at 8 referring to *Baehr* v. *Lewin*, 74 Haw. 530, 852 P. 2d 44.. Although this decision did not mandate that same-sex marriage be allowed, some States were concerned by its implications and reaffirmed in their laws that marriage is defined as a union between opposite-sex partners. So too in 1996, Congress passed the Defense of Marriage Act (DOMA), 110 Stat. 2419, defining marriage for all federal-law purposes as 'only a legal union between one man and one woman as husband and wife.' 1 U. S. C. §7."

moral relativism.[54] On balance, DOMA and the state's marriage bans were turned into law for "irreligious reasons," not "religious ones," as the Homosexuals and their judges pretended in a keeping with a pattern of intellectual dishonesty throughout an unlawful agenda predicated on the ends justifying the means.[55] There was nothing "religious" about the original legal definition

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[54] In terms of the notion that man-woman marriage violates the establishment clause as floated by the homosexuals in *Obergefell* is false and intellectually dishonest. There is nothing in the Constitution that mandates absolute neutrality. Pleasant Grove City v. Summum, 555 U.S.460 (2009); *Van Orden v. Perry,* 545 U.S. 677 (2005). Religion/Christianity is the keystone of this nation's foundation, and while the Establishment Clause certainly prohibits the government from endorsing or establishing particular religions at the exclusion of others, it does not prevent the government from speaking about religion in general. Jd. at 885-87; see also Caroline Mala Corbin, Ceremonial Deism and the Reasonable Religious Outsider, 57 UCLA L. REV. 1545, 1550 n. 24 (2010)"We are a religious people whose institutions presuppose a Supreme Being." Id. at 889 (quoting *Zorach v. Clauson*, 343 U.S. 306, 313 (1952)). Just because the lawmakers that passed DOMA and the marriage bans into law were speaking about Christianity and the Bible in accordance with their worldview on the legislative chamber floor, does not mean that their "government speech" caused these laws to violate the establishment clause in light of the holding in Pleasant summum. After all, each of us bring a set semi-religious set of truth claims and into the public square every time we enter it in an effort to answer questions of right and wrong and truth and justice. It is impossible for religious doctrines to be left at the door completely before entering into the public square. And let's face it, we all know that not all truth claims are equal.

[55] The traditional marriage legal definition of marriage was based on self-evident truth like the bill of rights was. If the government made every man-woman marriage be conducted in the name of Buddha, Muhammad, or Jesus Christ that would be unconstitutional because it would violate the establishment clause - failing the lemon test and coercive test. But that is not the case. The traditional marriage definition is neutral and fact based only - it only happens to incidentally parallel other religions like Christianity and Judaism, just as much of our laws and Constitution do. *Van Orden v. Perry*, 545 U.S. 677 (2005); *Pleasant Grove City v. Summum*, 555 U.S.460 (2009). If the government was to throw out all laws that paralleled Christianity, our Nation would in a total state of nature Gay marriage is not neutral and is advanced by zealous religious ideologs who are hoping to establish their worldview as supreme through any means necessary as a tool to proselytize. Until the 2000s, there was never any reason for the government to legally codify the dictionary definition of marriage until it became clear that misguided and selfish moral relativist were on the march and warpath to use the government to codify their private moral codes and religious ideology in order to critique Christianity and absolute truth in a pathetic effort to rationalize away their unavoidable feelings of shame and inadequacy. Gay marriage, transgender rights, gay rights are nothing more than critiques on Christianity and the truth. And critiques on religion are always a religion themselves. Gay

of marriage, which was merely (1) the definition of marriage as defined by secular dictionaries for millennia;[56](2) predicated on self-evidently truth and neutral facts about "the way human are and the way things are." [57] Our government cannot be used by members of church of sexuals

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marriage is a critique on actual marriage. As Justice Roberts stated: "The Court today not only overlooks our country's entire history and tradition but actively repudiates it, preferring to live only in the heady days of the here and now. I agree with the majority that the "nature of injustice is that we may not always see it in our own times." *Ante*, at 11. As petitioners put it, "times can blind." Tr. of Oral Arg. on Question 1, at 9, 10. But to blind yourself to history is both prideful and unwise. "The past is never dead. It's not even past." W. Faulkner, Requiem for a Nun 92 (1951). Throughout Obergefell the same-sex marriage litigants and the Judges, who unwisely subscribe to their shallow dogma, never deny that they were using government to establish respect for their worldview. It was as if they were insulting the establishment clause while saying that "nobody else's basis for morality as a basis for law matters except for ours." The intellectual dishonesty spewing from the Court is mind numbing and worthy of unilateral public contempt.

[56] Roberts in his dissent in Obergefell stated: "In his first American dictionary, Noah Webster defined marriage as "the legal union of a man and woman for life," which served the purposes of "preventing the promiscuous intercourse of the sexes, . . . promoting domestic felicity, and . . . securing the maintenance and education of children." 1 An American Dictionary of the English Language (1828). An influential 19th-century treatise defined marriage as "a civil status, existing in one man and one woman legally united for life for those civil and social purposes which are based in the distinction of sex." J. Bishop, Commentaries on the Law of Marriage and Divorce 25 (1852). The first edition of Black's Law Dictionary defined marriage as "the civil status of one man and one woman united in law for life." Black's Law Dictionary 756 (1891) (emphasis deleted). The dictionary maintained essentially that same definition for the next century. This Court's precedents have repeatedly described marriage in ways that are consistent only with its traditional meaning. Early cases on the subject referred to marriage as "the union for life of one man and one woman," *Murphy* v. *Ramsey*, 114 U. S. 15, 45 (1885), which forms "the foundation of the family and of society, without which there would be neither civilization nor progress," *Maynard* v. *Hill*, 125 U. S. 190, 211 (1888). We later described marriage as "fundamental to our very existence and survival," an understanding that necessarily implies a procreative component. *Loving* v. *Virginia*, 388 U. S. 1, 12 (1967); see *Skinner* v. *Oklahoma ex rel. Williamson*, 316 U. S. 535, 541 (1942).

[57] Traditional marriage arose out of the "the nature of things" and did not arise out of a desire to acquire political power and to use government as a tool to show the irresponsible gospel of moral relativism down the throats of our citizens. (Roberts dissent page 5). See G. Quale, A History of Marriage Systems 2 (1988); cf. M. Cicero, De Officiis 57 (W. Miller transl. 1913). Because moral relativists pretend or believe that marriage is an "esteemed institution." Obergefell at 13 (Majority Opinion). The lawmakers codified DOMA and the marriage bans from preventing

orientation, and post modern western moral relativism to establish the credence of its doctrinal creed. Doing so has ended up establishing a National religion that absolutely punishes anyone who believes that homosexuality is morally repugnant, obscene, and subversive to human flourishing, which has nullified the obscenity standards, cultivated a weapon for the LGBT activist to proselytize, and eroded freedom. Just ask Defendant Kim Davis who was thrown in jail for refusing to abandon her loyalty to the central figure of the New Testament Gospel because she refuses to check her brain at the door of the unexamined assumption of the superiority of our cultural moment like five justices on the Supreme Court intentionally did in *Obergefell v. Hodge*,192 L. Ed. 2d 609 (2015). "The majority's driving themes in [Obergefell] are that marriage is desirable and [homosexual] petitioners desire it" Roberts Dissent pg. 15. But the self-entitlement syndrome of blind moral relativists is not enough to get around the first amendment establishment clause. Period! So while the majority was correct in that the Constitution defines marriage, it does so in a way that guts their selfish agenda to make a name for themselves and cultivate a lasting legacy.

Here is the ugly truth that Americans need to come to terms with: the real reason why Democrats and moral relativist, like President Obama and the moral relativist on the bench, are so supportive of gay marriage is not because "love is love" but because they know that codifying the religion of moral relativism will repel Christians and any American who believe in absolute truth from participating in government, since, like Kim Davis, they will be otherwise forced to either leave behind their deepest religious convictions and identity narrative or face

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irrational moral relativist from using government to codify their wack religious ideals by hijacking this "esteemed institution." *Goodridge*, 440 Mass., at 322, 798 N. E. 2d, at 955.Pg 12.

dehumanizing persecution and crushing ostracism. Neither the Courts nor the Petitioners in *Obergefell* even tried to hide the fact that they were out to "bestow dignity" and "ennoblement" to a specific religious "orthodoxy." [58] That is, the Obergefell Court knew that they were not bestowing dignity on a "people group" but a religious ideology. Such activity is not only Constitutionally unsound, it amounts to per se judicial misconduct and actionable treason under 18 U.S. Code§ 2381 and racketeering in obscenity under 18 U.S. Code §§1961-1968. While it is debatable whether traditional legal marriage ever bestowed a "dignity interest" in the first place or whether marriage is a "fundamental right" since their is nothing automatic about courtship, the legal codification of sexual orientation ideology unconstitutionally bestows a dignity interest on the gospel of homosexuality, making it reign supreme as the National Religion at the expense of free speech, free association, free thought, free expression, decency, and liberty. Indeed, the *Obergefell* decision is an act of war on the Constitution itself making the Court's lack of integrity an internalized threat to National Security interests.[59] So here is the bottomline up front: all laws

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[58] Bestowing dignity on the homosexual religious ideology amounts to the government's efforts to ""endorse" the religion of moral relativism and "disfavor" Christians in public and private sector which violates the first amendment establishment clause under the lemon test under *Lynch v. Donnelly*, 465 U.S. 668, 687-94 (1984). The "coercion test" invented by Justice Kennedy fails to deal with another category of state actions — those captured under the rubric of state "endorsement," where no coercion of any kind is involved. Under Justice O'Connor's endorsement test, even where the state has concededly not coerced religious behavior, either directly or indirectly, state action may nevertheless violate the Clause if it creates the impression, in the mind of the reasonable observer, that the state has endorsed religion over nonreligion, or vice versa. While it may or may not be true that "the [legal] right to marry dignifies," it does not allow the Federal Courts to codify the religion of homosexuality and postmodern relativism. Obergefell at 14 (Majority).

[59] Basically what happened in Obergefell is that the five Justices said that "nobody's version of morality as a basis of law matters except for ours." It was the most imperialistic, jaded, and intellectually dishonest power play ever seen in American Jurisprudence. Traditional morality as a basis for law was replaced by the private moral code of the homosexuals and their like minded Judges as an "act of will," not "legal judgment." *Obergefell* at 3 (Roberts dissenting).

that support gay marriage, gay rights, and transgender rights must be deemed Constitutionally nullified and void for violating the first amendment establishment clause. Not just in Kentucky - no indeed - but in all 50 states for better or worse.[60] By enjoining the state and federal government from legally recognizing all other forms of marriage the fundamental right of people of all kinds of faith will not be trampled on.[61]

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[60] In response to the Obergefell decision, Chief Justice Roberts states, "the Court takes the extraordinary step of ordering every State to license and recognize same-sex marriage. Many people will rejoice at this decision, and I begrudge none their celebration. But for those who believe in a government of laws, not of men, the majority's approach is deeply disheartening." After Sevier v. Davis, the Chief Justice can take heart in the fact that all 50 states must nullify homosexual marriage, but he cannot take heart in the idea that each individual state should be allowed to decide for itself how to define marriage. If the Courts follow the Constitution as they must, the Obergefell litigants and their like-minded misguided Judges have managed to completely undo what they hoped to establish for the entire nation. Henceforth, all 50 states must legally define marriage between "one man and one woman," not just banning man-man marriage but all other forms to include the Plaintiff's preferred marriage of man-object as a matter of equity.# This Nation wide nullification of homosexual orthodoxy - alone - should immediately undermine the transgender bathroom scandal, which has created a "public health" and put children at risk for sexual exploitation. Nullifying the legal definition of gay marriage will destroy President Obama's malicious platform to blackmail the states out of billions of dollars for refusing to disregard obscenity statutes. *Obergefell* at 8 (Alito Dissenting). The transgender policy in the military advanced by the Secretary of Defense must also be voided as a natural extension of this cause of action by judicial decree. Judicial nullification adds to the fact that United Commanders must already disregard the transgender policy under the Uniform Code of Military Justice for being (1) objectively immoral under 809.ART.90 (20) and (2) prejudicial to good order under Article 134. See *United States v. Humphries*, 71 M.J. 209, 213 (C.A.A.F. 2012). To make sure that this kind of injustice does not happen again, if elected, President Trump, should order the Department of Justice to prosecute those involved in this Constitutional hijacking.

[61] The Fourteenth Amendment protects the liberty of individuals to travel throughout the nation, uninhibited by statutes, rules, or regulations that unreasonably burden or restrict their movement. This right guards against interference with citizens' rights "to migrate, resettle, find a new job, and start a new life." *Shapiro v. Thompson,* 394 U.S. 618, 629 (1969). Since all transgender, gay rights, and gay marriage laws must be nullified under the first amendment establishment clause for the same reason that man-object, man-animal, and man-multiperson marriage cannot be recognized currently, people who self-identify as homosexual can once again travel freely throughout the Nation without having to travel to one state or another to get the state to issue a

PART II
THE LEGAL BASIS FOR MAN-OBJECT AND MAN-MAN MARRIAGE ARE IDENTICAL, AND FOR THE STATE TO ISSUE MARRIAGE LICENSES TO HOMOSEXUALS BUT NOT MACHINISTS FOLLOWING THE DECISION IN OBERGEFELL VIOLATES THE ESTABLISHMENT CLAUSE BECAUSE IT IS FAVORING ONE DENOMINATION IN THE CHURCH OF SEXUAL ORIENTATION OVER ANOTHER SECT

The current legal definition of marriage violates the first amendment establishment clause and is Constitutionally invalid for another reason, which give the intervening Plaintiff standing to seek the two part form of relief. The current legal definition of marriage unconstitutionally treats different denominations within the church of sexual orientation, moral relativism, and postmodern relativism differently, giving favor to the homosexual sect at the expense of the other minority sects. *McCreary Cnty, Ky. v. ACLU of Ky.*, 545 U.S. 844, 860 (2005).[62] Man-object marriage, man-animal, and man-multiperson, man-man, and woman-woman marriage are all different sects and denominations of the religion of sexual orientation under the

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marriage license, since they can rest in the fact that no marriage other than "man-woman" marriage is legally recognized by any state. All individuals who self-identify as homosexual can know, just as machinists, polygamists, and zoophiles have always known, that just as their marriages were never factually equal to man-woman marriage that gay marriage was never legally equal to traditional marriage to being with in light of Kennedy's coercive test and O'Conner's lemon test under the first amendment. This does not mean that the government can stop individuals who self-identify as homosexual, polygamists, machinists, zoophiles from having marriage cerimonies with their preferred spouse in accordance with their "true private choice" under *Zelman v. Simmons-Harris*, 536 U.S. 639 (2002).

[62] *McCreary County, Kentucky v. ACLU* of Kentucky is the only Supreme Court case that seems to firmly hold that neutrality is mandated between religion and nonreligion. . The Court quoted the neutrality language "between religion and religion, and between religion and nonreligion" as the "touchstone for [its] analysis." *McCreary Cnty, Ky. v. ACLU of Ky.*, 545 U.S. 844, 860 (2005) (quoting *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968)). But after examining the facts and the holding in McCreary County, it seems that the Court actual~ based its holding on neutrality "between religion and religion."

religion of postmodern westin individualistic moral relativism. (Declarations of Cothran ¶¶ 1-50 and Quinlan ¶¶ 1-37). What is absolutely not vague about the establishment clause is that it bars the government from treating one denomination more favorable than another. *Engel v. Vitale*, 370 U.S. 421, 431 (1962).[63] For example, the government cannot give tax breaks to protestant churches but not methodists ones. The Government cannot favor machinists and homosexuals over zoophiles (like the Intervening Plaintiff). By issuing marriage licenses to those who are in the homosexual denominations of the church of sexual orientation, but not to those who belong to the polygamy, machinism, and zoophilia demonstration, the intervening Plaintiff has sustained a personal injury by a government action that is legally cognizable. The intervening Plaintiff went to the Rowan County clerk`s office, where she observed same-sex couples acquire a marriage license, but when she requested a marriage license in step with her feelings and personal choice, the clerk arbitrarily denied her request because she belongs to a less popular denomination within the same over all religion as homosexuality. The intervening Plaintiff has standing to ask the Court to enjoin the state and federal government from recognizing all laws that favor the largest denomination within the church of sexual orientation and moral relativism

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[63] See also Steven G. Gey, *Reconciling the Supreme Court's Four Establishment Clauses*, 8 U. PA. j. CONST. L. 725, 754 (2006) (citing Wallace v. jaffree, 472 U.S. 38, 91 (1985) (Rehnquist,]., dissenting)); *see also* Robert L. Cord, *Church-State Separation: Restoring the "No Preference" Doctrine of the First Amendment*, 9 HARV. j .L. & PUB. POL'Y 129 (1986).

as a matter of equitable fairness. [64] Both man-man marriage, man-animal, and man-object marriage must be treated equally under the laws of the United States.

PART III

IF THE COURT IS GOING TO CONTINUE TO PRETEND THAT THE FIRST AMENDMENT ESTABLISHMENT CLAUSE DOES NOT BAR THE FEDERAL AND STATE GOVERNMENT FROM REDEFINING MARRIAGE, THEN IT MUST GIVE THOSE WHO SELF-IDENTIFY AS MACHINISTS, ZOOPHILES, AND POLYGAMISTS THE "FUNDAMENTAL," "INDIVIDUAL," AND "EXISTING" RIGHT TO MARRIAGE BASED ON THEIR "PERSONAL CHOICE IN KEEPING WITH THEIR DUE PROCESS AND EQUAL PROTECTION RIGHTS UNDER THE 14TH AMENDMENT

For purposes of the 1st amendment establishment clause and the 14th amendment, the Obergefell Court did not "burst the bonds" of "history and tradition" far enough to accord with the intervening Plaintiff's sexual appetites and preferences based on her fundamental civil rights and immutable traits based on sex and sexual orientation classification. Obergefell at 29 (Roberts dissent). The Obergefell Court stated:

> "Under the Due Process Clause of the Fourteenth Amendment, no State shall "deprive any person of life, liberty, or property, without due process of law." The fundamental liberties protected by this Clause include most of the rights enumerated in the Bill of Rights. See *Duncan* v. *Louisiana*, 391 U. S. 145, 147–149 (1968). In addition these liberties extend to certain personal choices central to individual dignity and autonomy, including intimate choices that define personal identity and beliefs..[65]

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[64] Just because homosexuals seek fulfillment in the "highest meaning" does not give the Court the right to codify their religious ideology, especially at the expense of the other denominations of sexual orientation. *Obergefell* at 17 (Majority). What the majority in *Obergefell* did not want to come to terms, but the dissent acknowledged, is the fact that there are many sects and denominations within the church of sexual orientation. The Plaintiff is in the machinist sect and he wants the the same rights and benefits as the ones acquired by the homosexual congregation. The intervening Plaintiff is of the zoophilia sect, and she wants the same rights as homosexuals and machinists as well.

[65] See, *e.g.*, *Eisenstad* v. *Baird*, 405 U. S. 438, 453 (1972); *Griswold* v. *Connecticut*, 381 U. S. 479, 484–486 (1965). Although it is true that over time and in other contexts, the Court has reiterated that the right to marry is fundamental under the Due Process Clause, the Courts in

Since the "Due Process Clause gives same-sex couples a fundamental right to marry because it will be good for them and for society," it logically follows that it must also "be good for machinists, zoophiles, and polygamists and society" if they too are equally allowed to acquire the state's *imprimatur* on their marriage ceremonies. *Obergefell* at 10 (Roberts Dissent) Thomas. Under the substantive due process analysis, the Plaintiff is as equally entitled to a "right to a particular governmental entitlement" to the exact same extent as individuals who self-identify as homosexual are. *Obergefell* at 7 (Dissent Thomas).[66]

The simple fact is that to *critique* the legal basis for man-object, man-animal, and man-multiple person marriage is to *critique* the legal basis for man-man and woman-woman marriage. No amount of judicial squinting or scholastic dishonesty can get around that premise. Justice Roberts in his dissent in *Obergefell* admits that there is not a legal basis to deny other

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Loving v. *Virginia*, 388 U. S. 1, 12 (1967), *Zablocki* v. *Redhail*, 434 U. S. 374, 384 (1978), *Turner* v. *Safley*, 482 U. S. 78, 95 (1987)., *M. L. B.* v. *S. L. J.*, 519 U. S. 102, 116 (1996); *Cleveland Bd. of Ed.* v. *LaFleur*, 414 U. S. 632, 639–640 (1974); *Griswold*, *supra*, at 486; *Skinner* v. *Oklahoma ex rel. Williamson*, 316 U. S. 535, 541 (1942); *Meyer* v. *Nebraska*, 262 U. S. 390, 399 (1923) were all referring to marriage as a fundamental right between one man and one woman, which of course does not violate the 1st amendment establishment clause like all of the other forms do. The Courts are going too far in legally recognizing other forms of marriage.

[66] Besides substantive due process, since the Court evoked sex based equal protection principles to invalidate laws imposing sex-based inequality on gay marriage, it must do the same thing with man-object marriage. See, *e.g.*, *Kirchberg* v. *Feenstra*, 450 U. S. 455 (1981); *Wengler* v. *Druggists Mut. Ins. Co.*, 446 U. S. 142 (1980); *Califano* v. *Westcott*, 443 U. S. 76 (1979); *Orr* v. *Orr*, 440 U. S. 268 (1979); *Califano* v. *Goldfarb*, 430 U. S. 199 (1977) (plurality opinion); *Weinberger* v. *Wiesenfeld*, 420 U. S. 636 (1975); *Frontiero* v. *Richardson*, 411 U. S. 677 (1973). "Like *Loving* and *Zablocki*, these precedents show the Equal Protection Clause can help to identify and correct inequalities in the institution of marriage, vindicating precepts of liberty and equality under the Constitution" for machinists and homosexuals alike. Obergefell 21.

forms of marriage.[67] He is factually right. Man-object, man-animal, man-multiperson, man-man, and woman-woman marriage are all equally not a part of "American tradition," whereas the definition of marriage that has been around for "millennia" and "predates our government."[68] Yet, due to a unbriddle refusal to think and intentional judicial malpractice, under *Obergefell*, it suddenly does not matter that the right to other forms of marriage lack "deep roots" and "are contrary to long-established tradition." *Obergefell* at 20 (Roberts Dissent).

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[67] "Indeed, from the standpoint of history and tradition, a leap from opposite-sex marriage to same-sex marriage is much greater than one from a two-person union to plural unions, which have deep roots in some cultures around the world. If the majority is willing to take the big leap, it is hard to see how it can say no to the shorter one. It is striking how much of the majority's reasoning would apply with equal force to the claim of a fundamental right to plural marriage. If "[t]here is dignity in the bond between two men or two women who seek to marry and in their autonomy to make such profound choices," *ante*, at 13, why would there be any less dignity in the bond between three people who, in exercising their autonomy, seek to make the profound choice to marry? If a same-sex couple has the constitutional right to marry because their children would otherwise "suffer the stigma of knowing their families are somehow lesser," *ante*, at 15, why wouldn't the same reasoning apply to a family of three or more persons raising children? If not having the opportunity to marry "serves to disrespect and subordinate" gay and lesbian couples, why wouldn't the same "imposition of this disability," *ante*, at 22, serve to disrespect and subordinate people who find fulfillment in polyamorous relationships? See Bennett, Polyamory: The Next Sexual Revolution? Newsweek, July 28, 2009 (estimating 500,000 polyamorous families in the United States); Li, Married Lesbian "Throuple" Expecting First Child, N. Y. Post, Apr. 23, 2014; Otter, Three May Not Be a Crowd: The Case for a Constitutional Right to Plural Marriage, 64 Emory L. J. 1977 (2015)." *Obergefell* at 21 (Justice Roberts Dissenting). Just as the intervening Plaintiff moves to intervene for the right to marry an animal, polygamist will also intervene in this action for the right to marry multiple persons.

[68] Although the Court articulated the importance of history and tradition to the fundamental rights inquiry most precisely in *Washington* v. *Glucksberg*, 521 U. S. 702, 721 (1997), many other cases both before and after have adopted the same approach. *District Attorney's Office for Third Judicial Dist.* v. *Osborne*, 557 U. S. 52, 72 (2009); *Flores*, 507 U. S., at 303; *United States* v. *Salerno*, 481 U. S. 739, 751 (1987); *Moore* v. *East Cleveland*, 431 U. S. 494, 503 (1977) (plurality opinion); see also *id.*, at 544 (White, J., dissenting) ("The Judiciary, including this Court, is the most vulnerable and comes nearest to illegitimacy when it deals with judge-made constitutional law having little or no cognizable roots in the language or even the design of the Constitution."); *Troxel* v. *Granville*, 530 U.S. 57, 96–101 (2000) (KENNEDY, J., dissenting) (consulting "'[o]ur Nation's history, legal traditions, and practices'" and concluding that "[w]e owe it to the Nation's domestic relations legal structure . . . to proceed with caution" (quoting *Glucksberg*, 521 U. S., at 721)).

The truth is what we have here are justices who are unwisely buying into the unexamined assumption of our superiority of our cultural moment just as the Courts in *Dred Scott v. Sandford*, 60 U.S. 393 (1857) and *Lochner v. New York,* 198 U. S. 45, 76 (1905) did before realizing that they were not just on "the wrong side of history" but on the "wrong side of reality." The Court cannot say that a man's request to marry a man in order to make him his wife is any more or less removed from reality than a woman's request to marry an animal no matter how much intellectual denial and blindness is undertaken. If a "man can be wife" as a fundamental right, then animals can be people too. After all, there are a litany of animal cruelty laws that give animals rights, and the intervening Plaintiff has a matter of property law should have the right to marry an animal since "love wins" and "love is love."

Millions of people suffer when the Court makes the wrong decision. It is obvious to even the dissenting Judges that the majority on the court used the litigation in *Obergefell* to impose their own private moral code on the Nation "as an act of will, not legal judgment." *Obergefell* at 3 (Roberts Dissent). To get around the impossible problem of "bi-sexuality" the Courts had to find that marriage was an "individual right," "fundamental right," and "existing right" bound in a "personal choice."[69] Now that the Plaintiff has taken Judge Sedwick's advice provided to him in an order issued in *Majors v. Horne,* 14 F. Supp. 3d 1313 (Ariz. 2014) and filed his own separate lawsuit to marry his preferred spouse in step with his "individual right," "fundamental right," existing right," and "personal choice" based on the sexual orientation, the Courts cannot turn around and deny the intervening Plaintiff for joining in just because her marriage request and

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[69] *Zablocki v. Redhail*, 434 U.S. 374, 384 (1978) (fundamental right); *Cleveland Bd. of Educ. v. LaFleur*, 414 U.S. 632, 63940 (1974) (personal choice); *Loving v. Virginia*, 388 U.S. 1, 12 (1967).

sexual orientation might be"morally disapproving" by individuals who get their source of truth from things like their facebook feed and google search engines. *Lawrence*, 539 U.S. at 564, at 582. If the marriage bans were "in essence unequal" before *Obergefell*, they remain "unequal," narrow, shallow, exclusive, arbitrary, and unconstitutional at present for polygamists, zoophiles, and machinists. *Obergefell* at 4 (Majority).

Either all of the non-obvious classes under sexual orientation suspect classification warrant civil rights or marriage is not really a fundamental right and sexual orientation[70] is a

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[70] In light of Greg Quinlan and Charlene Cothran's declarations, all of the following Courts listed below were engaging in judicial and political malpractice when they found that sexual orientation was based on immutable traits and the basis for suspect classification. (See declaration of Greg Quinlan ¶¶ 1-37 and Charlene Cothran ¶¶ 1-50). But if the Court wants to play pretend as part of fraudulent cover up, it must find that machinists (like the Plaintiff), polygamists, and zoophiles are part of that same suspect class, having cultivated sexual appetites based on their immutable traits.See *Lalli v. Lall*i, 439 U.S. 259, 264-65 (1978);; *Craig v. Boren*, 429 U.S. 190, 197-98 (1976)(indicating that sexual orientation is a basis for suspect classification). Courts have stated that sexual orientation has no "relation to [the] ability" of a person 'to perform or contribute to society." *City of Cleburne*, 473 U.S. at 440-41;; see *Pedersen v. Office of Pers. Mgmt.*, 881 F. Supp. 2d 294, 3 18-19 (D. Conn. 2012) ("[T]he long-held consensus of the psychological and medical community is that 'homosexuality per se implies no impairment in judgment, stability, reliability or general or social or vocational capabilities.") (quoting 1973 RESOLUTION OF THE AMERICAN PSYCHOLOGICAL ASSOCIATION);; *Perry v. Schwarzenegger*, 704 F. Supp. 2d 921, 1002 (N.D. Cal. 2010) ("[B]y every available metric, opposite-sex couples are not better than their same-sex counterparts;; instead, as partners, parents and citizens, opposite-sex couples and same-sex couples are equal.");; see also *Watkins v. US. Army*, 875 F.2d 699, 725 (9th Cir. 1989) ("Sexual orientation plainly has no relevance to a person's ability to perform or contribute to society.") The Courts also contend sexual orientation is immutable. As the Supreme Court acknowledged, sexual orientation is so fundamental to a person's identity that one ought not be forced to choose between one's sexual orientation and one's rights as an individual even if one could make a choice. *Lawrence*, 539 U.S. at 576-77 (recognizing that individual decisions by consenting adults concerning the intimacies of their physical relationships are "an integral part of human freedom"). See, e.g., *Perry*, 704 F. Supp. 2d at 964-66 (holding sexual orientation is fundamental to a person's identity);; Hernandez-Montiel v. INS, 225 F.3d 1084, 1093 (9th Cir. 2000) (holding that sexual orientation and sexual identity are immutable). Furthermore, the scientific consensus is that sexual orientation is an immutable characteristic. See *Pedersen*, 881 F. Supp. 2d at 320-21 (finding that the immutability of sexual orientation "is supported by studies which document the prevalence of long-lasting and committed relationships between same-sex couples as an indication of the enduring nature of the

fiction to the point that the greatest fraud in the history of American Jurisprudence has been perpetrated on the American people. See *McDonald Santa Fe Trail Transp. Co.*, 427 U.S. 273, 27879, 96 S. Ct. 2574, 2578, 49 L. Ed. 2d 493 (1976). Respectfully Submitted,

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characteristic.");; *Perry*, 704 F. Supp. 2d at 966 ("No credible evidence supports a finding that an individual may, through conscious decision, therapeutic intervention or any other method, change his or her sexual orientation.");; see also G.M. Herek, et al., Demographic, Psychological, and Social Characteristics of Self-Identified Lesbian, Gay, and Bisexual Adults in a US. Probability Sample, 7 SEXUALITY REs. & Soc. POL'Y 176, 186, 188 (2010) (noting that in a national survey, 95 percent of gay men and 84 percent of lesbian women reported that they "had little or no choice about their sexual orientation.") Certain classes of sexual orientation constitute a minority group that lacks sufficient political power to protect themselves against discriminatory laws that lack political power and deserve suspect classification. See, e.g., *SmithKline Beecham Corp. v. Abbott Labs*, 740 F.3d 471, 480-84 (9th Cir. 2014) (holding use of peremptory strike against gay juror failed heightened scrutiny);; see also *Pedersen*, 881 F. Supp. 2d at 294 (finding statutory classifications based on sexual orientation are entitled to heightened scrutiny);; *Golinski v. Office of Pers. Mgmt.*, 824 F. Supp. 2d 968, 314-33 (N.D. Cal. 2012) (same). See *Romer v. Evans,* 517 U.S. 620, 634-35 (1996) (citing *Dep't of Agr. v. Moreno*, 413 U.S. 528, 534 (1973)) ("[I]f the constitutional conception of 'equal protection of the laws' means anything, it must at the very least mean that a bare. . . desire to harm a politically unpopular group cannot constitute a legitimate governmental interest.") (emphasis added). People who want to marry machines are far less popular than people who want to marry a member of the same sex.Then, in 2003, the Court held that homosexuals had a protected liberty interest to engage in private, sexual activity;; that homosexuals' moral and sexual choices were entitled to constitutional protection;; and that "moral disapproval" did not provide a legitimate justification for a Texas law criminalizing sodomy. See *Lawrence*, 539 U.S. at 564, 571. The Court held that the Constitution protects "personal decisions relating to marriage, procreation, contraception, family relationships, [and] child rearing" and that homosexuals "may seek autonomy for these purposes." Id. at 574. Clearly, individuals who prefer sex with machines, animals, and multiple-persons were contemplated by the Supreme Court when they floated lawrence under the banner of tolerance. Most recently, in 2013, the United Supreme Court held that the Constitution prevented the federal government from treating state-sanctioned heterosexual marriages differently than state-sanctioned same-sex marriages, and that such differentiation "demean[ed] the couple, whose moral and sexual choices the Constitution protects." See Windsor, 133 S. Ct. at 2694. Clearly, the USSC, in its infinite wisdom, also intended that the sexual choices of the members of non-obvious classes of sexual orientation were protected also.

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF KENTUCKY NORTHERN DIVISION AT ASHLAND

CHRIS SEVIER **V.** **KIM DAVIS, in her official capacity as Clerk Of Rowan County; MATT BEVIN, in his official capacity as Governor Of Kentucky; and ANDY BESHEAR, in his official capacity as Clerk of Attorney General For Kentucky**	**The Honorable Judge Henry R. Wilhoit, Jr** **Case No: 0:16-cv-00080** **COMPLAINT FOR INJUNCTIVE RELIEF** **JURY DEMAND**

RESPONSE IN SUPPORT OF INTERVENING PLAINTIFF'S MOTION TO INTERVENE

NOW COMES, Plaintiff Sevier, in support of the intervening Plaintiff's request to intervene in this action. The United States Government, when it is functioning properly and filled with leaders who have wisdom, has always chiefly been concerned with enabling human flourishing. The Government of the United States wants to see its citizens thrive. Generally speaking, the government should make the objective right choice the easy choice. After all, without truth, there can be no freedom to excel. Freedom comes from the truth. The laws of the United States cannot be based on dishonesty, if we are to be released to the deeper richer freedom of maximized human flourishing. In *United States v. Windsor,* 133 S. Ct. 2675, 186 L. Ed. 2d 808 (2013), the homosexual litigants asserted that marriage bans and statutes, like DOMA, relegated their class of sexual orientation to second class citizen status. Of course, they floated in their argument in step with a manipulative pattern of emotional exploitation and intellectual dishonesty because the only form of truth they believe in is that the ends justify the means. Facts are a homosexuals arch enemy. Federal and state Marriage bans and other statutes that block other forms of marriage were not directed at people who self-identify as homosexual. To suggest

otherwise is too simplistic, whimsical, and reductionistic to have anything to do with reality. The laws were directed at a prohibition of codifying the religious ideology found in the church of postmodern western individual relativism which is includes the unproven faith based assumption of the doctrine of "sexual orientation. But once five judges, who support and favor the largest denomination of the church, in *Obergefell v. Hodge*,192 L. Ed. 2d 609 (2015) used the 14th amendment to make the states adopt their worldview on the superiority of homosexual orthodoxy after plugging into Lady Gaga's gospel of "born this way" gospel narrative, then polygamists, zoophiles, and machinists were actually relegated to second class citizen status arbitrarily in a depersonalizing manner that is patently Constitutionally unsound. The homosexuals are always telling everyone to believe as they do "or else," as an extension of their feelings of shame and inadequacy.[1] Of course, members of ISIS have that same convert or die mindset pursuant to their identity narrative. Those who are in the largest denomination of postmodern western individualism do not only threaten, harangue, and target Christians, Muslims, and Jews, they also target ex gays, machinists, and polygamists. The codification of homosexual orthodoxy has not lead to more freedom and unity but less. Just as Muslims preach a religion of peace, but don't really mean it, because Islam is an abstract truth involving a detached Entity that is "one way" and exploitative by definition, homosexuals push a gospel of tolerance but absolutely do not mean it either. As a member of the church of sexual orientation and postmodern individual western expressive relativism, the Plaintiff cannot and will not oppose the intervention request of a zoophile merely because she is in a different sect of the same church.

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1 http://adflegal.org/detailspages/blog-details/allianceedge/2016/07/12/freedom-matters-podcast-are-sermons-on-biblical-sexuality-illegal-in-iowa.

The Plaintiff, himself, made countless attempts to intervene in the prior same-sex marriage actions involving civil rights and the question as to how does the Constitution demand that the states define marriage. These cases included (1) *Bradacs v. Haley,* 58 F.Supp.3d 514 (2014);; (2) *Brenner v. Scott*, 2014 WL 1652418 (2014);; (3) *General Synod of The United Church of Christ v. Cooper,* 3:14-cv-213 (WD. NC 2014);; (4) *Kitchen v. Herbert*, 755 F. 3d 1193, 1223 (CA10 2014);; (5) *Bostic v. Schaefer,* 760 F.3d 352 (4th Cir. 2014);; *Majors v. Horne,* 14 F. Supp. 3d 1313 (Ariz. 2014);; *Majors v. Horne*, 14 F. Supp. 3d 1313 (Ariz. 2014);; *Deleon v. Abbott*, 791 F3d 619 (5th Cir 2015);; *Tanco v. Haslam*, 7 F. Supp. 3d 759 (MD Tenn. 2014);; *Bourke v. Beshear,* 996 F. Supp. 2d 542 (WD Ky. 2014);; and *Obergefell v. Hodge*,192 L. Ed. 2d 609 (2015). Anger is not the opposite of love. Hate is. And the final form of hate is indifference, and the Plaintiff is not indifferent towards a "judicial putsch" involving civil rights and Constitutional domination. *Obergefell* at 6 (Scalia Dissenting). Every single time the Plaintiff moved to intervene as an ambassador of the true minority of sexual orientation, the same-sex marriage litigants vehemently opposed the Plaintiff, finding his marriage request to be "morally repugnant." *Lawrence v. Texas*, 539 U. S. 558, 575 (2003). "Our obligation is to define the liberty of all, not to mandate our own moral code" went out the window through a series of incredibly dishonest power plays enabled by moral relativist on the bench, who are enemies of liberty. *Planned Parenthood of Southeastern Pa. v. Casey*, 505 U.S. 833, 850 (1992)(See Exhibits). One Judge in Florida, Judge Robert Hinkle, who is a pro-homosexual and more concerned about his career aspirations than the truth, had the audacity to find that the Plaintiff's request to marry an object was removed from reality. *Brenner v. Scott*, 2014 WL 1652418 (2014). But that was merely Robert Hinkle's feelings, and why should his feelings be privileged

over anyone else's - especially a combat Judge Advocate Generals? Hypothetically, for Bill to legally marry Ted for benefits and self-justification in order to make Ted his wife is no more removed from reality than the Plaintiff's request to marry an object or the intervening Plaintiff's request to marry an animal. The culture does not dictate civil rights, the Constitution does. Just as the state cannot oppose the Plaintiff's marriage request if gay marriage is actually Constitutional, the Plaintiff cannot oppose the intervening Plaintiff's request to join in and sharing in the same civil rights.

When the homosexuals opposed the Plaintiff's intervening demands, the same-sex marriage litiga literally explained away the entire explanation for their case in chief in rejecting the Plaintiff's intervention demand. Meanwhile, man-object marriage does not violate the community standards of decency any more or less than man-man, man-animal, or woman-woman marriage. *Miller v. California*, 413 U.S. 15, 3034 (1973). *Ginsberg v. New York*, 390 U.S. 629, 639–40, 88 S.Ct. 1274, 20 L.Ed.2d 195 (1968). The fact that there was a referendum to block gay marriage demonstrates conclusively that homsexuality violates the obscenity standards - perhaps more so than zoophilia, polygamy, and machinism. So although the Democratic process cannot decide how marriage can legally be defined as the Dissent in *Obergefell* argued, it can resolve what the community standards of obscenity are. *Court v. State,* 51 Wis. 2d 683, 188 N.W.2d 475 (1971) vacated, 413 U.S. 911, 93 S. Ct. 3032, 37 L. Ed. 2d 1023 (1973). The phony tolerant same-sex marriage litigants denial of the Plaintiff's intervention and marriage request came after they exhaustively analogized their plight to the race one in order to shoehorn their religious beliefs into legal cognizability at the expense of other sects within the same church. All sect of people who embrace sexual orientation ideology

advance a set of unproven truth claims that amount to identity narratives and naked assertions. The Government cannot codify such beliefs because it leaves no room for objection and freedom of expression - just ask Defendant Davis. *Lynch v. Donnelly,* 465 U.S. 668, 687-94 (1984)(lemon test);; *Lee v. Weisman*, 505 U.S. 577 (1992);; *School District v. Doe*, 530 U.S. 290 (2000);; *County of Allegheny v. ACLU*, 492 U.S. 573 (1989)(coercion test). But if the Courts are going to continue to ignore the 1st amendment on these matters and only rely on the 14th amendment to prescribe a National definition of marriage, then very obviously all individuals deserve due process rights not just the largest majority (homosexuals) and the majority (heterosexuals).[2] Even the members of the non-obvious classes of sexual orientation deserve the same substantive due process and equal protection rights. *McDonald v. Santa Fe Trail Transp. Co*., 427 U.S. 273, 27879, 96 S. Ct. 2574, 2578, 49 L. Ed. 2d 493 (1976). Justices cannot monkey with the equal protection clause simply because they are trying to codify their own private moral code without inevitably becoming the laughing stock of history and accountable to the people for the proliferation of dishonesty and the erosion of freedoms. Whenever the Justices subscribe to the unexamined assumption of the superiority of our cultural moment in crafting the law, they end up producing decisions like *Lochner v. New York,* 198 U. S. 45, 76 (1905) and *Dred Scott v. Sandford*, 60 U.S. 393 (1857). As it stands now, *Sevier v. Davis* 0:2016-cv-00080 (E.D. KY 2016) must inevitably be to *Obergefell v. Hodge*,192 L. Ed. 2d 609 (2015) what *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954) was to *Plessy v. Ferguson*, 163 U.S. 537 (1896).

In cases like *Obergefell v. Hodge*,192 L. Ed. 2d 609 (2015) and *Kitchen v. Herbert*, 755 F. 3d 1193, 1223 (CA10 2014), the plaintiff sought permission from the state defendants as well

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[2] The civil rights act is clear that "all persons" cannot be discriminated on the basis of race, sex, gender, religion. *Heart of Atlanta Motel Inc. v. United States,* 379 U.S. 241 (1964).

and would encourage the intervening Plaintiff to do the same in step with the local rules. Almost every time the Plaintiff sought permission to intervene, the state Defendants took the intervention request under advisement, and the homosexual litigants never did. The same-sex litigants were so arrogant that they managed to memorialize their rejection in writing, which the Plaintiff promptly filed with the Court as a direct omission against interest in order to further demonstrate that the true minority classes of sexual orientation were being maliciously excluded. This smoking gun evidence is part of the public record. And the Plaintiff is not interested in seeing it swept under the rug.

The Plaintiff will not commit the same horseface hypocrisy that he was exposed to in asking permission from the homosexual litigants for permission to intervene in the prior cases. Based on the Intervening Plaintiff's motion, it appears that she sustained the same injury as the Plaintiff in this action and that homosexuals sustained in *Obergefell v. Hodge*,192 L. Ed. 2d 609 (2015), with a minor twist - she wants to marry an animal and not a woman or object. While the Plaintiff self-identifies as a machinist and is in that smaller sect of sexual orientation, the intervening Plaintiff self-identifies as a zoophile and is in an equal but different denomination of the church of sexual orientation and postmodern western individual relativism as homosexuals and polygamists. Zoophiles, like Machinists and homosexuals contribute to society, but of course, the paramount question is not contribution but how does the United States Constitution tell us how marriage should be defined. The Plaintiff admits and acknowledges that zoophiles, homosexuals, polygamists, and machinists deserve to be treated equally under the law since they are all members of the same religion only in different sects. After all, there is no doubt that the government absolutely cannot treat different sects of the same religion unequally thanks to the

court's express findings in case like. *McCreary Cnty, Ky. v. ACLU of Ky.*, 545 U.S. 844, 860 (2005); *Engel v. Vitale,* 370 U.S. 421, 431 (1962).[3] The Plaintiff admits that to critique the legal basis for homosexual and zoophile marriage is to critique the legal basis for man-object marriage, therefore, the Plaintiff will not undermine his own case in chief, like the homosexuals did in denying his intervention request in cases like *Obergefell v. Hodge*,192 L. Ed. 2d 609 (2015).(See exhibits). The Plaintiff is reminded of the "disheartened" Chief Justice Roberts words when he said:

> If you are among the many Americans—of whatever sexual orientation—who favor expanding same-sex marriage, by all means celebrate today's decision. Celebrate the achievement of a desired goal. Celebrate the opportunity for a new expression of commitment to a partner. Celebrate the availability of new benefits. But do not celebrate the Constitution. It had nothing to do with it." *Obergefell* at 29 (Roberts Dissent).

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[3] The current legal definition of marriage violates the first amendment establishment clause and is Constitutionally invalid for another reason, which give the Plaintiff standing to seek the two part form of relief. The current legal definition of marriage unconstitutionally treats different denominations within the church of sexual orientation, moral relativism, and postmodern relativism differently, giving favor to the homosexual sect at the expense of the other minority sects. *McCreary Cnty, Ky. v. ACLU of Ky.*, 545 U.S. 844, 860 (2005). Man-object marriage, man-animal, and man-multiperson, man-man, and woman-woman marriage are all different sects and denominations of the religion of sexual orientation under the religion of postmodern westin individualistic moral relativism. Declarations of Cothran ¶¶ 1-50 and Quinlan ¶¶ 1-37. What is absolutely not vague about the establishment clause is that it bars the government from treating one denomination more favorable than another. *Engel v. Vitale*, 370 U.S. 421, 431 (1962). For example, the government cannot give tax breaks to protestant churches but not methodists ones. By issuing marriage licenses to those who are in the homosexual denominations of the church of sexual orientation, but not to those who belong to the polygamy, machinism, and zoophilia demonstration, the Plaintiff has sustained a personal injury by a government action that is legally cognizable. The Plaintiff went to the Rowan County clerk's office, where he observed same-sex couples acquire a marriage license, but when he requested a marriage license in step with his feelings and personal choice, the clerk arbitrarily denied his request because he belongs to a less popular denomination within the same over all religion as homosexuality. The Plaintiff has standing to ask the Court to enjoin the state and federal government from recognizing all laws that favor the largest denomination within the church of sexual orientation and moral relativism as a matter of equitable fairness. Both man-man marriage and man-object marriage must be treated equally under the laws of the United States.

As a former rule of law combat Judge Advocate General, the Plaintiff is chiefly concerned with Constitutional integrity, even at the expense of his own personal safety, health, and welfare. To quote Justice Sotomayor " We do not live in a pure Democracy. We live in a Constitutional Democracy." Oral Argument in *Obergefell.* And if the 14th amendment applies to sexual orientation, the intervening Plaintiff's presence in this case will given more credibility to all other forms of marriage that are based on the religion of postmodern individual western expressive relativism that stems from the enlightenment tradition.

What the intervening Plaintiff might not know and appreciate is that the Plaintiff's father is the senior hiring partner of easily the best and largest firm in the state of Alabama. He once clerked before the Honorable Judge Seybourn Harris Lynne, who was appointed by President Truman. As a child, Judge Lynn became the Plaintiff's Godfather and mentor until his death in 2000. During his time on the bench, the Honorable Judge Lynn presided over many important civil rights cases, including the case allowing Vivian Malone Jones and James Hood to enter the University of Alabama, ending desegregation at that institution. The Plaintiff very much believes that these marriage matters have imposed an clear and present danger to the integrity of the Civil Rights Movement that was spearheaded by Reverend Martin Luther King Jr. The fact that race relations under President Obama's leadership is at an all time low in years, it is even more urgent that the Honorable Judge Wilhoit be given every opportunity to make a sound judicial decision that accords with the rule of law and the Constitution. Dr. Martin Luther King Jr. did not believe just that "Black lives" matter. No indeed, he believed that "all lives matter." (to include blue ones - the police - and green ones - Soldiers). Likewise, the Plaintiff does not believe that just man-man and man-machine marriage matters, he believes that all forms of

marriage within the religion of postmodern individual relativism matter equally from a legal standpoint. Yet, the Plaintiff does not assert that other forms of marriage are equal to the dictionary definition of marriage from a factual or legal standpoint. How to define marriage is not a procreative matter, it is a Constitutional one. But it is a fact that the Plaintiff has the same procreative potential with an object that the intervening plaintiff has with an animal as a homosexual has with another member of the same-sex.

Therefore, the Plaintiff refuses to engage in intellectual dishonesty and suggest that other forms of marriage are factually and legally equal to man-woman marriage, but the Plaintiff cannot and does not dispute that the man-object marriage is at the very least legally equal to man-animal, man-man, man-multiperson, and woman-woman marriage. The Plaintiff's hands are tied from opposing the intervening Plaintiff's request. To be fair, there are rumors that polygamist intend to intervene in this action. If an individual who self-identifies as a polygamists wants to intervene, the Plaintiff will likely not object to that request either.[4] Under

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[4] Quoting *Obergefell* at 21 (Justice Roberts Dissenting): "Indeed, from the standpoint of history and tradition, a leap from opposite-sex marriage to same-sex marriage is much greater than one from a two-person union to plural unions, which have deep roots in some cultures around the world. If the majority is willing to take the big leap, it is hard to see how it can say no to the shorter one. It is striking how much of the majority's reasoning would apply with equal force to the claim of a fundamental right to plural marriage. If "[t]here is dignity in the bond between two men or two women who seek to marry and in their autonomy to make such profound choices," *ante*, at 13, why would there be any less dignity in the bond between three people who, in exercising their autonomy, seek to make the profound choice to marry? If a same-sex couple has the constitutional right to marry because their children would otherwise "suffer the stigma of knowing their families are somehow lesser," *ante*, at 15, why wouldn't the same reasoning apply to a family of three or more persons raising children? If not having the opportunity to marry "serves to disrespect and subordinate" gay and lesbian couples, why wouldn't the same "imposition of this disability," *ante*, at 22, serve to disrespect and subordinate people who find fulfillment in polyamorous relationships? See Bennett, Polyamory: The Next Sexual Revolution? Newsweek, July 28, 2009 (estimating 500,000 polyamorous families in the United States); Li, Married Lesbian "Throuple" Expecting First Child, N. Y. Post, Apr. 23, 2014; Otter, Three May

substantive due process, machinism, zoophilia, polygamy, and homosexuality at all equally not part of American Tradition.[5] But if the state lacks a compelling to block homosexual marriage, the state clearly lacks a compelling interest to prevent machinists and zoophiles from exercising their "existing right," "individual right," and "fundamental right" that is bound in a personal choice from marrying.[6] A court of law is not an arcade of semantics. There are real world consequences for decisions that are issued by this Court. The zoophile who intends to intervene appears to be as equally concerned about the welfare of minors as the Plaintiff. Hypothetically, if "little Billy" is to grow up believing that marrying little Sally or little Timmy are equal viable options under the law, then he must know that marrying an animal, machine, or both "little Sally" and "little Timmy" are equally viable options under the law. While homosexuals really want to use government to establish the validity of their ideology, the Plaintiff's want that too but they also want something different - Constitutional integrity. While Ruth Ginsberg has

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Not Be a Crowd: The Case for a Constitutional Right to Plural Marriage, 64 Emory L. J. 1977 (2015)."

[5] Although the Court articulated the importance of history and tradition to the fundamental rights inquiry most precisely in *Washington v. Glucksberg,* 521 U. S. 702, 721 (1997), many other cases both before and after have adopted the same approach. *District Attorney's Office for Third Judicial Dist.* v. *Osborne*, 557 U. S. 52, 72 (2009); *Flores*, 507 U. S., at 303; *United States* v. *Salerno*, 481 U. S. 739, 751 (1987); *Moore* v. *East Cleveland*, 431 U. S. 494, 503 (1977) (plurality opinion); see also *id.,* at 544 (White, J., dissenting) ("The Judiciary, including this Court, is the most vulnerable and comes nearest to illegitimacy when it deals with judge-made constitutional law having little or no cognizable roots in the language or even the design of the Constitution."); *Troxel* v. *Granville*, 530 U.S. 57, 96–101 (2000) (KENNEDY, J., dissenting) (consulting "'[o]ur Nation's history, legal traditions, and practices'" and concluding that "[w]e owe it to the Nation's domestic relations legal structure . . . to proceed with caution" (quoting *Glucksberg*, 521 U. S., at 721)).

[6] *Zablocki v. Redhail*, 434 U.S. 374, 384 (1978) (fundamental right); *Cleveland Bd. of Educ. v. LaFleur*, 414 U.S. 632, 63940 (1974) (personal choice); *Loving v. Virginia*, 388 U.S. 1, 12 (1967).

apologized for saying that she would (1) move to New Zealand if Donald Trump were President, that (2) she could not stand the thought of Donald Trump being President, and (3) that Donald Trump was a faker, it appears that the Plaintiff and the intervening Plaintiff equally would like to see Justice Ginsburg and her fellow pro-homosexual justices apologize by legally redefining marriage in a manner that accords with the United States Constitution correctly. [7]

What we've learned as a Nation from *Obergefell v. Hodge*,192 L. Ed. 2d 609 (2015) is that to say that doctrine as a basis for law does not matter is a doctrine. Relativist in the homoseuxal denomination have to assume the thing that they intend to deny in order to deny it. The government officials who are pro-homosexual orthodoxy have proven conclusively that those who are intolerant of intolerant people are intolerant, those who are judgmental towards judgmental people are judgmental, and those who are dogmatic towards dogmatic people are dogmatic.

THE 14TH AMENDMENT IS AND ALL OR NOTHING DEAL

For purposes of the 1st amendment establishment clause and the 14th amendment, the *Obergefell* Court did not "burst the bonds" of "history and tradition" far enough to accord with the Plaintiff's sexual appetites and preferences based on his fundamental civil rights and immutable traits based on sex and sexual orientation classification. Obergefell at 29 (Roberts dissent). The Obergefell Court stated:

> "Under the Due Process Clause of the Fourteenth Amendment, no State shall "deprive any person of life, liberty, or property, without due process of law." The fundamental liberties protected by this Clause include most of the rights enumerated in the Bill of Rights. See *Duncan* v. *Louisiana*, 391 U. S. 145, 147–149 (1968). In addition these liberties extend to certain personal choices central to individual dignity and autonomy, including intimate choices that define personal identity and beliefs. See, *e.g., Eisenstadt*

[7] http://video.foxnews.com/v/5035416843001/justice-ginsburg-apologizes-for-ill-advised-trump-comments/?#sp=show-clips

v. *Baird*, 405 U. S. 438, 453 (1972); *Griswold* v. *Connecticut*, 381 U. S. 479, 484–486 (1965).[8]

Since the "Due Process Clause gives same-sex couples a fundamental right to marry because it will be good for them and for society," it logically follows that it must also "be good for machinists, zoophiles, and polygamists and society" if they too are equally allowed to acquire the state's *imprimatur* on their marriage ceremonies. *Obergefell* at 10 (Roberts Dissent) Thomas. Under the substantive due process analysis, the Plaintiff is as equally entitled to a "right to a particular governmental entitlement" to the exact same extent as individuals who self-identify as homosexual are. *Obergefell* at 7 (Dissent Thomas).[9]

The simple fact is that to *critique* the legal basis for man-object, man-animal, and man-multiple person marriage is to *critique* the legal basis for man-man and woman-woman marriage. No amount of judicial malpractice or scholastic dishonesty can get around that

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[8] Although it is true that over time and in other contexts, the Court has reiterated that the right to marry is fundamental under the Due Process Clause, the Courts in *Loving* v. *Virginia*, 388 U. S. 1, 12 (1967), *Zablocki* v. *Redhail*, 434 U. S. 374, 384 (1978), *Turner* v. *Safley*, 482 U. S. 78, 95 (1987)., *M. L. B.* v. *S. L. J.*, 519 U. S. 102, 116 (1996); *Cleveland Bd. of Ed.* v. *LaFleur*, 414 U. S. 632, 639–640 (1974); *Griswold*, *supra*, at 486; *Skinner* v. *Oklahoma ex rel. Williamson*, 316 U. S. 535, 541 (1942); *Meyer* v. *Nebraska*, 262 U. S. 390, 399 (1923) were all referring to marriage as a fundamental right between one man and one woman, which of course does not violate the 1st amendment establishment clause like all of the other forms do. The Courts are going too far in legally recognizing other forms of marriage.

[9] Besides substantive due process, since the Court evoked sex based equal protection principles to invalidate laws imposing sex-based inequality on gay marriage, it must do the same thing with man-object marriage. See, *e.g.*, *Kirchberg* v. *Feenstra*, 450 U. S. 455 (1981); *Wengler* v. *Druggists Mut. Ins. Co.*, 446 U. S. 142 (1980); *Califano* v. *Westcott*, 443 U. S. 76 (1979); *Orr* v. *Orr*, 440 U. S. 268 (1979); *Califano* v. *Goldfarb*, 430 U. S. 199 (1977) (plurality opinion); *Weinberger* v. *Wiesenfeld*, 420 U. S. 636 (1975); *Frontiero* v. *Richardson*, 411 U. S. 677 (1973). "Like *Loving* and *Zablocki*, these precedents show the Equal Protection Clause can help to identify and correct inequalities in the institution of marriage, vindicating precepts of liberty and equality under the Constitution" for machinists and homosexuals alike. Obergefell 21.

premise. Justice Roberts in his dissent in *Obergefell* admits that there is not a legal basis to deny other forms of marriage.[10] He is right. Man-object, man-animal, man-multiperson, man-man, and woman-woman marriage are all equally not a part of "American tradition," whereas the definition of marriage that has been around for "millennia" and "predates our government."[11] Yet, due to a unbriddle refusal to think and malicious judicial agenda, under *Obergefell*, it

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[10] "Indeed, from the standpoint of history and tradition, a leap from opposite-sex marriage to same-sex marriage is much greater than one from a two-person union to plural unions, which have deep roots in some cultures around the world. If the majority is willing to take the big leap, it is hard to see how it can say no to the shorter one. It is striking how much of the majority's reasoning would apply with equal force to the claim of a fundamental right to plural marriage. If "[t]here is dignity in the bond between two men or two women who seek to marry and in their autonomy to make such profound choices," *ante*, at 13, why would there be any less dignity in the bond between three people who, in exercising their autonomy, seek to make the profound choice to marry? If a same-sex couple has the constitutional right to marry because their children would otherwise "suffer the stigma of knowing their families are somehow lesser," *ante*, at 15, why wouldn't the same reasoning apply to a family of three or more persons raising children? If not having the opportunity to marry "serves to disrespect and subordinate" gay and lesbian couples, why wouldn't the same "imposition of this disability," *ante*, at 22, serve to disrespect and subordinate people who find fulfillment in polyamorous relationships? See Bennett, Polyamory: The Next Sexual Revolution? Newsweek, July 28, 2009 (estimating 500,000 polyamorous families in the United States); Li, Married Lesbian "Throuple" Expecting First Child, N. Y. Post, Apr. 23, 2014; Otter, Three May Not Be a Crowd: The Case for a Constitutional Right to Plural Marriage, 64 Emory L. J. 1977 (2015)." *Obergefell* at 21 (Justice Roberts Dissenting).

[11] Although the Court articulated the importance of history and tradition to the fundamental rights inquiry most precisely in *Washington v. Glucksberg,* 521 U. S. 702, 721 (1997), many other cases both before and after have adopted the same approach. *District Attorney's Office for Third Judicial Dist.* v. *Osborne*, 557 U. S. 52, 72 (2009); *Flores*, 507 U. S., at 303; *United States* v. *Salerno*, 481 U. S. 739, 751 (1987); *Moore* v. *East Cleveland*, 431 U. S. 494, 503 (1977) (plurality opinion); see also *id.,* at 544 (White, J., dissenting) ("The Judiciary, including this Court, is the most vulnerable and comes nearest to illegitimacy when it deals with judge-made constitutional law having little or no cognizable roots in the language or even the design of the Constitution."); *Troxel* v. *Granville*, 530 U.S. 57, 96–101 (2000) (KENNEDY, J., dissenting) (consulting "'[o]ur Nation's history, legal traditions, and practices'" and concluding that "[w]e owe it to the Nation's domestic relations legal structure . . . to proceed with caution" (quoting *Glucksberg*, 521 U. S., at 721)).

suddenly does not matter that the right to other forms of marriage lack "deep roots" and "are contrary to long-established tradition." *Obergefell* at 20 (Roberts Dissent).

The truth is what we have here are justices who are unwisely buying into the unexamined assumption of our superiority of our cultural moment just as the Courts in *Dred Scott v. Sandford*, 60 U.S. 393 (1857) and *Lochner v. New York,* 198 U. S. 45, 76 (1905) did before realizing that they were not just on "the wrong side of history" but on the "wrong side of reality." The Court cannot say that a man's request to marry a man in order to make him his wife is any more or less removed from reality than a man's request to marry an object no matter how much intellectual squinting tries to take place. If a "man can be wife" as a fundamental right, then machines can be people too. After all, corporations are legally recognized persons under the law that have 14th amendment rights too. *Santa Clara County v. Southern Pacific Railroad Company,* 118 US 394 (1886)(Corporations have 14th amendment rights). And the Supreme Court has already found a fundamental privacy interest in interactive objects. *Riley v. California,* 573 U . S . _ (2014)("Modern cell phones are not just another technological convenience. With all they contain and all they may reveal, they hold for many Americans "the privacies of life").[12]

Millions of people suffer when the Court makes the wrong decision. It is obvious to even the dissenting Judges that the majority on the court used the litigation in *Obergefell* to impose their own private moral code on the Nation "as an act of will, not legal judgment." *Obergefell* at 3 (Roberts Dissent). To get around the impossible problem of "bi-sexuality" the Courts had to

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[12] Hypothetically, if it is not frivolous for Ted to force the state to allow him to marry Bill and make everyone in society have to recognize Bill as his "wife," then it is not frivolous for the Plaintiff to force the state to allow him to marry an object and force everyone in society to recognize that object as his spouse. These claims are at the very least equally in touch with reality.

find that marriage was an "individual right," "fundamental right," and "existing right" bound in a "personal choice." *Zablocki v. Redhail*, 434 U.S. 374, 384 (1978) (fundamental right); *Cleveland Bd. of Educ. v. LaFleur*, 414 U.S. 632, 63940 (1974) (personal choice); *Loving v. Virginia*, 388 U.S. 1, 12 (1967). Now that the Plaintiff has taken Judge Sedwick's advice provided to him in an order issued in *Majors v. Horne,* 14 F. Supp. 3d 1313 (Ariz. 2014) and filed his own separate lawsuit to marry his preferred spouse in step with his "individual right," "fundamental right," existing right," and "personal choice" based on the sexual orientation, the Courts cannot turn around and say that "the prior courts really didn't mean it" just because the Court and culture find that man-object marriage is morally repugnant, non-traditional, or "morally disapproving." *Lawrence*, 539 U.S. at 564, at 582. If the marriage bans were "in essence unequal" before *Obergefell*, they remain "unequal," narrow, shallow, exclusive, arbitrary, and unconstitutional at present for polygamists, zoophiles, and machinists. *Obergefell* at 4 (Majority).

Either all of the non-obvious classes under sexual orientation suspect classification warrant civil rights or marriage is not really a fundamental right and sexual orientation[13] is a

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[13] In light of Greg Quinlan and Charlene Cothran's declarations, all of the following Courts listed below were engaging in judicial and political malpractice when they found that sexual orientation was based on immutable traits and the basis for suspect classification. (See declaration of Greg Quinlan ¶¶ 1-37 and Charlene Cothran ¶¶ 1-50). But if the Court wants to play pretend as part of fraudulent cover up, it must find that machinists (like the Plaintiff), polygamists, and zoophiles are part of that same suspect class, having cultivated sexual appetites based on their immutable traits.See *Lalli v. Lall*i, 439 U.S. 259, 264-65 (1978);; *Craig v. Boren*, 429 U.S. 190, 197-98 (1976)(indicating that sexual orientation is a basis for suspect classification). Courts have stated that sexual orientation has no "relation to [the] ability" of a person 'to perform or contribute to society." *City of Cleburne*, 473 U.S. at 440-41;; see *Pedersen v. Office of Pers. Mgmt.*, 881 F. Supp. 2d 294, 3 18-19 (D. Conn. 2012) ("[T]he long-held consensus of the psychological and medical community is that 'homosexuality per se implies no impairment in judgment, stability, reliability or general or social or vocational capabilities.") (quoting 1973 RESOLUTION OF THE AMERICAN PSYCHOLOGICAL ASSOCIATION);; *Perry v. Schwarzenegger*, 704 F. Supp. 2d 921, 1002 (N.D. Cal. 2010) ("[B]y every available metric, opposite-sex couples are not better than their same-sex counterparts;; instead, as partners,

parents and citizens, opposite-sex couples and same-sex couples are equal.");; see also *Watkins v. US. Army*, 875 F.2d 699, 725 (9th Cir. 1989) ("Sexual orientation plainly has no relevance to a person's ability to perform or contribute to society.") The Courts also contend sexual orientation is immutable. As the Supreme Court acknowledged, sexual orientation is so fundamental to a person's identity that one ought not be forced to choose between one's sexual orientation and one's rights as an individual even if one could make a choice. *Lawrence*, 539 U.S. at 576-77 (recognizing that individual decisions by consenting adults concerning the intimacies of their physical relationships are "an integral part of human freedom"). See, e.g., *Perry*, 704 F. Supp. 2d at 964-66 (holding sexual orientation is fundamental to a person's identity);; Hernandez-Montiel v. INS, 225 F.3d 1084, 1093 (9th Cir. 2000) (holding that sexual orientation and sexual identity are immutable). Furthermore, the scientific consensus is that sexual orientation is an immutable characteristic. See *Pedersen*, 881 F. Supp. 2d at 320-21 (finding that the immutability of sexual orientation "is supported by studies which document the prevalence of long-lasting and committed relationships between same-sex couples as an indication of the enduring nature of the characteristic.");; *Perry*, 704 F. Supp. 2d at 966 ("No credible evidence supports a finding that an individual may, through conscious decision, therapeutic intervention or any other method, change his or her sexual orientation.");; see also G.M. Herek, et al., Demographic, Psychological, and Social Characteristics of Self-Identified Lesbian, Gay, and Bisexual Adults in a US. Probability Sample, 7 SEXUALITY REs. & Soc. POL'Y 176, 186, 188 (2010) (noting that in a national survey, 95 percent of gay men and 84 percent of lesbian women reported that they "had little or no choice about their sexual orientation.") Certain classes of sexual orientation constitute a minority group that lacks sufficient political power to protect themselves against discriminatory laws that lack political power and deserve suspect classification. See, e.g., *SmithKline Beecham Corp. v. Abbott Labs*, 740 F.3d 471, 480-84 (9th Cir. 2014) (holding use of peremptory strike against gay juror failed heightened scrutiny);; see also *Pedersen*, 881 F. Supp. 2d at 294 (finding statutory classifications based on sexual orientation are entitled to heightened scrutiny);; *Golinski v. Office of Pers. Mgmt.*, 824 F. Supp. 2d 968, 314-33 (N.D. Cal. 2012) (same). See *Romer v. Evans*, 517 U.S. 620, 634-35 (1996) (citing Dep't of Agr. v. Moreno, 413 U.S. 528, 534 (1973)) ("[I]f the constitutional conception of 'equal protection of the laws' means anything, it must at the very least mean that a bare. . . desire to harm a politically unpopular group cannot constitute a legitimate governmental interest.") (emphasis added). People who want to marry machines are far less popular than people who want to marry a member of the same sex.Then, in 2003, the Court held that homosexuals had a protected liberty interest to engage in private, sexual activity;; that homosexuals' moral and sexual choices were entitled to constitutional protection;; and that "moral disapproval" did not provide a legitimate justification for a Texas law criminalizing sodomy. See Lawrence, 539 U.S. at 564, 571. The Court held that the Constitution protects "personal decisions relating to marriage, procreation, contraception, family relationships, [and] child rearing" and that homosexuals "may seek autonomy for these purposes." Id. at 574. Clearly, individuals who prefer sex with machines, animals, and multiple-persons were contemplated by the Supreme Court when they floated lawrence under the banner of tolerance. Most recently, in 2013, the United Supreme Court held that the Constitution prevented the federal government from treating state-sanctioned heterosexual marriages differently than state-sanctioned same-sex marriages, and that such differentiation "demean[ed] the couple, whose moral and sexual choices the Constitution protects." See Windsor, 133 S. Ct. at 2694. Clearly, the USSC in its infinite

fiction to the point that the greatest fraud in the history of American Jurisprudence has been perpetrated on the American people. See *McDonald Santa Fe Trail Transp. Co.*, 427 U.S. 273, 27879, 96 S. Ct. 2574, 2578, 49 L. Ed. 2d 493 (1976). Machinists and zoophiles will not be asking to have their own separate bathrooms, like those who self-identify as homosexual and transgender in accordance with their self-identity narrative.[14]

Respectfully Summitted,

/s/Chris Sevier/
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615 500 4411
ghostwarsmusic@gmail.com
BPR#026577;
Minister License: 7860644
1LT 27A JAG _th SPF G
Ghost OP Echo Foxtrot Sierra

CERTIFICATE OF SERVICE

I hereby certify that a copy of this document and attached exhibits were mailed with adequate postage to the Defendants in this actions on July 15, 2016 to Kim Davis at 600 W Main St #102, Morehead, KY 40351; The Attorney General at 310 Whittington Parkway, Suite 101 Louisville, KY 40222 Phone: (502) 429-7134 Fax: (502) 429-7129. Governor Bevin 700 Capitol Avenue, Suite 100 Frankfort, Kentucky 40601.

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wisdom also intended that the sexual choices of the members of non-obvious classes of sexual orientation were protected also.

[14] http://www.foxnews.com/us/2016/07/14/virginia-school-board-takes-transgender-bathroom-case-to-supreme-court.html

EXHIBIT H

THE PHONY TOLERANT
SAME SEX LITIGANTS
REFUSE TO ALLOW SEVIER
TO INTERVENE - JUST LIKE
THE UNITED STATES : THEY WERE LYING

10th Cir. R. 27.3 Intervention final request

Shannon Minter <SMinter@nclrights.org> Wed, Apr 30, 2014 at 9:51 PM
To: Chris Severe <ghostwarsmusic@gmail.com>, "tomsic@mgplaw.com" <tomsic@mgplaw.com>, "magleby@mgplaw.com" <magleby@mgplaw.com>, "parrish@mgplaw.com" <parrish@mgplaw.com>, "kkendall@nclrights.org" <kkendall@nclrights.org>, David Codell <DCodell@nclrights.org>, "rchamness@slco.org" <rchamness@slco.org>, "dgoddard@slco.org" <dgoddard@slco.org>, "phillott@utah.gov" <phillott@utah.gov>, "spurser@utah.gov" <spurser@utah.gov>, Gene Schaerr <gschaerr@gmail.com>

Chris,

Thank you for your inquiry. The plaintiffs do oppose your proposed intervention.

Sincerely,

Shannon Minter

From: Chris Severe [mailto:ghostwarsmusic@gmail.com]
Sent: Wednesday, April 30, 2014 5:40 PM
To: tomsic@mgplaw.com; magleby@mgplaw.com; parrish@mgplaw.com; kkendall@nclrights.org; Shannon Minter; David Codell; rchamness@slco.org; dgoddard@slco.org; phillott@utah.gov; spurser@utah.gov; Gene Schaerr
Subject: 10th Cir. R. 27.3 Intervention final request

Hey guys, I am moving to intervene. I have spoken to some of you. But it is not 100% clear whether you are objecting to my request to intervene. Unless, we have a response by the morning, an updated (more polished) draft of the attached motion will be filed. Please make clear whether you are opposed to this intervention. Thanks so much for your immediate attention to this matter and your efforts to promote justice.

[Quoted text hidden]

+Chris

Gmail

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Laura Johnson
Mark Freeman
McCluskey, Altav...
Peter J. Strianse
Shelley Lubben

Motion to intervene at the 6th Circuit level

Inbox x

Chris Severe <ghostwarsmusic@gn 4:32 PM (6 hours ago)

to Dan, jean-in, jennie.l.kneed, stephanie.fren, lfarah, brian.ju

Hey guys, I'm filing a motion to intervene in this case today. Pursuant to the local rules, do I have your permission to intervene? I am required to seek permission from both sides. I assume you saw my motion to intervene in the lower court that was served through mail and ECF. Thanks so much,

Best,

Dan Canon 5:09 PM (6 hours ago)

to me, llatherow, jennie.l.kneed, clay.barkley, stephanie.fren, j

Nope.

Chris Severe <ghostwarsmusic@gn 5:49 PM (5 hours ago)

to Dan, llatherow, jennie.l.kneed, clay.barkley, stephanie.fren

Wow, literally that's your response to my request to marry on the basis of my sexual orienation, after equating this plight to race, fundamental rights, immutable traits, you just explained away the explanation to your case in chief as well as mine and demonstrated for the record flagrant racism and absolute imperialistic hypocrisy through mocking flippant denial. I'll have to immediately address that with the Court.

Gmail by Google

Chris Severe <ghostwarsmusic@gmail.com>

Re: Again and Again I ask: do you give permission to intervene? I'm moving to intervene in Tanco before the USSC

Chris Severe <ghostwarsmusic@gmail.com> Fri, Dec 5, 2014 at 4:56 PM
To: Abby Rubenfeld <arubenfeld@rubenfeldlaw.com>
Cc: Shannon Minter <sminter@nclrights.org>, "aorr@nclrights.org" <aorr@nclrights.org>, "bharbison@sherrardroe.com" <bharbison@sherrardroe.com>, "pcramer@sherrardroe.com" <pcramer@sherrardroe.com>, "shickman@sherrardroe.com" <shickman@sherrardroe.com>, "jfarringer@sherrardroe.com" <jfarringer@sherrardroe.com>, "mtholland@aol.com" <mtholland@aol.com>, "martha.campbell@ag.tn.gov" <martha.campbell@ag.tn.gov>, "kevin.steiling@ag.tn.gov" <kevin.steiling@ag.tn.gov>, sandy Garrett <sgarrett@tbpr.org>, Krisann Hodges <KHodges@tbpr.org>, "newseditors@wsj.com" <newseditors@wsj.com>, "APNASHVILLE@ap.org" <APNASHVILLE@ap.org>, "hope@focusonthefamily.com" <hope@focusonthefamily.com>

Hey Abby, thank you for that response, as dehumanizing and hypocritical as it is. If you will recall, your lawsuit has to deal with sexual orientation and equal rights. So therefore, my motion to intervene has everything to do with this case on the terms of your foundational arguments. The problem is that you do not represent anyone's interest other than same sex orientation which leaves all other variations of sexual orientation in the cold. The newer definition of marriage you seek is not expansive enough.

If you will recall the 6th Circuit said this: If it is constitutionally irrational to stand by the man-woman definition of marriage, it must be constitutionally irrational to stand by the monogamous definition of marriage. Plaintiffs have no answer to the point. What they might say they cannot: They might say that tradition or community mores provide a rational basis for States to stand by the monogamy definition of marriage, but they cannot say that because that is exactly what they claim is illegitimate about the States' male-female definition of marriage. The predicament does not end there. No State is free of marriage policies that go too far in some directions and not far enough in others, making all of them vulnerable—if the claimants' theory of rational basis review prevails. pg 23.

And whether you want to accept it or not, your response to me, alone completely invalidates the entire case for those of us who are proponents of sexual orientation being a class. Polygamist, man-animal, and man-object marriages are completely excluded by the very animus and bigotry that you attach to all proponents of traditional marriage.

Please stop making us look bad.

I have a attached the motion filed in regarding the case in the 10th Circuit, so you can have an opportunity to reconsider, since your response will be filed an an exhibit with the Motion to intervene. (Like the Plaintiffs, I exercise my right to travel as well).

I'll send over the motion over the weekend. My motion in this case is much more severe than the one filed in Utah. Unfortunately, I am not swayed by popularity contest or the unexamined assumptions of the superiority of cultural moment. Please try to be less hypocritical and impulsive in the future, even though you are proud not to believe in morality.

Thanks so much,
Best,
Chris

On Fri, Dec 5, 2014 at 4:33 PM, Abby Rubenfeld <arubenfeld@rubenfeldlaw.com> wrote:

mr. severe:

no, you do not have permission. your issues have nothing to do with this case.

abby rubenfeld

Abby R. Rubenfeld

Rubenfeld Law Office, PC

2409 Hillsboro Road, Suite 200

Nashville, Tennessee 37212

615/386-9077

615/386-3897 (facsimile)

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From: Chris Severe [mailto:ghostwarsmusic@gmail.com]
Sent: Friday, December 05, 2014 4:23 PM
To: Shannon Minter; aorr@nclrights.org; bharbison@sherrardroe.com; pcramer@sherrardroe.com; shickman@sherrardroe.com; jfarringer@sherrardroe.com; mtholland@aol.com; Abby Rubenfeld; martha.campbell@ag.tn.gov; kevin.steiling@ag.tn.gov; sandy Garrett; Krisann Hodges; newseditors@wsj.com
Cc: APNASHVILLE@ap.org; hope@focusonthefamily.com
Subject: Re: Again and Again I ask: do you give permission to intervene? I'm moving to intervene in Tanco before the USSC

To the Petitioners and respondents, I am moving to intervene before the USSC in Tanco by Monday. Do I have your consent to intervene?

Best,

Chris

On Fri, May 30, 2014 at 5:03 AM, Chris Severe <ghostwarsmusic@gmail.com> wrote:

I move today to intervene in the 6th Circuit Court of Appeals.

I ask unto you pursuant to the local rules and the 6th Circuit rules, do you permit or reject my rule 24 request to intervene? The response you give will be telling, even if you with hold a response in bad faith.

Best,

Chris

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2 attachments

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95K

Gmail by Google

Chris Severe <ghostwarsmusic@gmail.com>

Smidgen of Hypocrisy Anyone? Games of Semantics? Internal Threat to the Constitution?

Chris Severe <ghostwarsmusic@gmail.com> Tue, Dec 2, 2014 at 7:02 PM
Draft To: Shannon Minter <SMinter@nclrights.org>

On Fri, May 30, 2014 at 11:32 AM, Chris Severe <ghostwarsmusic@gmail.com> wrote:

> Shannon, there must be a mistake - you denied my request to intervene (see your response below); I ask that you reread the pleadings. How can you deny my request to intervene, equate this matter to a race plight, and argue sexual orientation equal protection, only advocating protection for the largest minority? Is this merely all a game of semantics for the Plaintiffs? Children and the integrity of the Equal protection clause hang in the balance.
>
> In case you miss something, I have reattached the pleadings. Additionally, I have attached some of the pleadings from the contemporaneous pornography lawsuit to suggest that even though I am not recruiting kids to have an amended sexual orientation, like the gays are, does not mean that ALL classes of sexual orientation MUST have equal protection as a suspect class. I am not on board with recruiting, but to be at odds with my request in both the lower Court and Court of appeals completely demonstrates the lack of sincerity in your argument. But it appears that you are not only toying with the emotions of the general public in this case by denying my request, you are posing an imminent threat to the integrity of the United States Constitution and therefore, National Security. The perpetuation of self-deception and the deception of others is not a act of love but of callous evil and hate.
>
> In Utah, the Plaintiffs - hypocritically denied my request to intervene as well - which provoked this filing:
>
> FRAUD, REVERSE RACISM, After filing the motion to intervene, new evidence has emerged that demonstrates the fraudulent hypocrisy of the Plaintiffs on a massive scale. Probably the most outrageous and disturbing part of this case is to observe the Plaintiffs argue to the Court that this case is equal to a race matter, relying on Loving v. Virginia, 388 U.S. 1 (1967). (which was the case that allowed inter-racial opposite sex couples to marry). So, if this case is equal to a race matter as the Plaintiffs have tireless argued, one would think that the Plaintiff would want ALL classes of race represented. But "NO," that is incorrect. The Plaintiffs' have proven to be the most bigoted group of - only advocating their brand of sexual orientation, and telling all others classes of sexual orientation - to include mine to "take a hike." At least the Defendants have the backbone to make factual and scientific arguments that traditional marriage is superior to all other forms in rejecting my request to intervene. But the Plaintiffs retreat into hiding when I use their arguments identically to defend my the rights of and promote equality. Plaintiffs counsel has effectively told me "we know we are lying to the Court and to the public, but we do not believe in objective morality so who cares!" This new evidence warrants reconsideration.Image if during the 1964 civil rights movement a African American group were arguing for class protection for the purposes of the 14th amendment on the basis of race. Then a Mexican person attempted to intervene, and in response, the African American teamed up with white supremacist to say "no you cannot intervene; your race is not worthy protection - only ours is." That would be outrageous! That occurred here, and accordingly, one of the greatest lies of our century ever perpetrated on the American public is exposed, triggering rule 60(b). The Plaintiffs plight has nothing to do with equality, it is about making adults feel better about their life-style choices and the proliferation of the ends justify the means government based value system that is polarizing our Nation. The rule of law is under assault. The Plaintiffs do not really see this matter as one of race, only as one of political and personal agenda to legislate away God and shame. But that is an exercise in futility. I am pretty sure that the United States will never get rid of Christians or convince Christians to see the conduct of the Plaintiffs and myself, as anything other than despicable and discourageable. There is no question that the darkest chapter in American history concerns the discrimination on the basis of race. The very idea that people of different color could not marry one another is outrageous, as loving describes. Yet, the very idea that

the Plaintiffs would piggy back off of slavery and the civil rights movement, only to then turn around and say to another class of sexual orientation, "no we don't really support total equality we are just messing with the publics emotions to get what we want," reopens our Nations greatest wound and proves the capacity for the American public be living under a blanket of wide-spread deception. To equate a plight to racism, when it is not on par, is completely racists, because it thinks so little of the millions of people who suffered under those movements. It smells of what the Nazis did regarding the Jews. The Plaintiffs are entitled to only disdain for having mislead the American public through racial arguments, when faced with the moment of truth by my intervention request. There are millions of Americans who have fooled themselves into believing that this is a matter of equality, when the Plaintiffs have executed an extreme "about face" on their position, after I appeared. Such hypocrisy is terrifying and shows that deception through lies is more a danger to our National integrity than bombs and bullets. The Court must roll back the blanket of delusion that has infected our culture, even if it is temporality not the popular decision.

Since it is possible that there was a misunderstanding, I ask you to clarify your response and the legal basis behind the denial off the record? Or quiet obviously, you may do so in the responsive pleading.

Thanks so much,

Best,
Chris Sevier
1LT 27A
BRP#026577
615 500 4411
9 Music Square South 247
Nashville, TN 37203

On Fri, May 30, 2014 at 8:00 AM, Shannon Minter <SMinter@nclrights.org> wrote:

> Chris,
>
> Plaintiffs do not consent to your request.
>
> Shannon
>
> **From:** Chris Severe [mailto:ghostwarsmusic@gmail.com]
> **Sent:** Friday, May 30, 2014 5:04 AM
> **To:** Shannon Minter; Chris Stoll; Asaf Orr; Bill Harbison Contact; Phil Cramer Contact; Scott Hickman Contact; John Farringer Contact; Mauren Holland Contact; Abby Rubenfeld; martha.campbell@ag.tn.gov; kevin.steiling@ag.tn.gov; sandy Garrett; Krisann Hodges; newseditors@wsj.com; rseditors@rollingstone.com
> **Cc:** John Dunn; APNASHVILLE@AP.ORG
>
> **Subject:** Again and Again I ask: do you give permission to intervene? I'm moving to intervene in Tanco today
>
> I move today to intervene in the 6th Circuit Court of Appeals.

I ask unto you pursuant to the local rules and the 6th Circuit rules, do you permit or reject my rule 24 request to intervene? The response you give will be telling, even if you with hold a response in bad faith.

Best,

Chris