

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

**ATHENACO, LTD dba ATHENA BOOK SHOP;
et al.,**

Plaintiffs,

v.

**MIKE COX, in his official capacity as
ATTORNEY GENERAL OF THE STATE OF
MICHIGAN; *et al.*,**

Defendants.

Civil No.

PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Pursuant to Rule 65 Fed. R. Civ. P., plaintiffs hereby move for a preliminary injunction and other appropriate relief against enforcement of the provisions of MCL §§ 722.671(a), (b) and (e), 722.675 and 722.677, all as amended by Act 192, Public Acts of 2003 of the Michigan legislature, that purport to limit access to First Amendment protected materials deemed “harmful to minors.” In addition, in light of the fact that the amendment's effective date is January 1, 2004 and, as the US. Supreme Court has stated, the loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury (*Elrod v. Burns*, 427 U.S. 347, 373 (1976)), plaintiffs seek a hearing on this motion on an expedited basis.

This motion is based upon the complaint herein and the declarations of Charles Brownstein, Executive Director of plaintiff Comic Book Legal Defense Fund (“CBLDF”); Cecile Fehnsfeld of plaintiff Schuler Books, Inc.; Christopher Finan, President of plaintiff

American Booksellers Foundation for Free Expression (“ABFFE”); Judith Krug, Executive Director of plaintiff Freedom to Read Foundation of the American Library Association (“FTRF”); Tom Lowry of plaintiff Lowry's Books L.L.C.; Karl Pohrt of plaintiff Shaman Drum Bookshop, Inc; and Nicola Rooney of plaintiff Rooney Family LLC dba Nicola's Books Little Professor.

As is detailed in the attached memorandum, the undisputed facts and the law of the case establish that plaintiffs are entitled to the preliminary injunction sought on the ground that the challenged Michigan statutes, as amended, violate both the First Amendment and the Fifth Amendment to the Constitution of the United States of America.

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