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For Immediate Release

SOUTH CAROLINA CENSORSHIP LAW STRUCK DOWN

May 11, 2005 – Booksellers, artists, writers and publishers today welcomed a decision that prohibits enforcement of a South Carolina law that bars distribution of visual sexual material to minors on the Internet. On Monday Judge Patrick Michael Duffy of the U.S. District Court in Charleston, South Carolina, issued a permanent injunction barring enforcement of the law, which would have restricted the right of adults and older minors right to access constitutionally-protected materials on the Internet.

“We are pleased to have successfully defended the right of booksellers to do business on the Internet on the same terms as in their stores—without arrest,” Wanda Jewell, executive director of the Southeast Booksellers Association, said.

The plaintiffs in the case were organizations that represent artists, writers, booksellers, and publishers who use the Internet to disseminate graphic arts, literature, and health-related information. Plaintiffs argued that the Act would have prohibited their members from sending material with serious artistic and scientific value over the Internet.

Judge Duffy found that the law violated the First Amendment because it did not employ the least restrictive means for preventing minors from using the Internet to access harmful to minors material. In addition, as opposed to filtering technology, which can screen out sexually-oriented material from any place, Judge Duffy declared that South

Carolina's law could do nothing to prevent minors from accessing material from outside the U.S..

Judge Duffy also found that the credit card-based age verification system that South Carolina had proposed to block minors from accessing harmful material would create a chilling effect on the speech of adults. Courts "have unanimously concluded that these measures are far too burdensome, and chill adults' ability to engage in, and garner access to, protected speech for a wealth of reasons."

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Plaintiffs in the case included the Southeast Booksellers Association, Redux Contemporary Art Center, Inc., American Booksellers Foundation for Free Expression, Association of American Publishers, Inc., Families Against Internet Censorship, and the Comic Book Legal Defense Fund. The plaintiffs were represented by David W. Odgen, Janis C. Kestenbaum, and Kenneth A. Bamberger of Wilmer Cutler Pickering Hale and Dorr LLP, Washington, D.C.; Michael A. Bamberger of Sonnenschein Nath & Rosenthal LLP, New York City; and Armand G. Derfner and D. Peters Wilborn, Jr. of Derfner, Wilborn & Altman, Charleston, S.C..