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**Contacts:** **Michael A. Bamberger**  
**Sonnenschein Nath & Rosenthal**  
**212-768-6756**  
**mbamberger@sonnenschein.com**

**H. Louis Sirkin**  
**Sirkin Pinales Mezibov and Schwartz**  
**513-721-4876**  
**spms@fuse.net**

## **OHIO CENSORSHIP LAW CHALLENGED BY BROAD COALITION**

### ***Courts Continue to Find Such Laws as Unconstitutional***

**DAYTON, OH, MAY 6, 2002** – A broad-based coalition, ranging from the state's oldest bookstore to the Ohio Newspaper Association, filed a lawsuit in U.S. District Court here today challenging the constitutionality of a new Ohio censorship statute signed into law this morning by Governor Bob Taft. Dayton-based Wilkie News, along with a sexuality website for the disabled and trade associations representing Internet content and access providers, bookstores, book and newspaper publishers, sound recording and video retail outlets in Ohio were the plaintiffs in the complaint.

The plaintiffs believe that the law unconstitutionally criminalizes First Amendment protected speech describing or depicting violence, glamorizing crime or including foul language, as well as nudity or sexual content, whether sold, rented, loaned, presented or otherwise distributed to teenagers by retailers within Ohio. The plaintiffs also believe that, even if the law were limited to that which may be restricted to minors, the application to material on the Internet would be unconstitutional.

"Much of the fine literature, popular novels and non-fiction carried by my and other bookstores, like such major and award winning works as Stephen King's "Carrie," John Grisham's "A Time to Kill," Sister Souljah's "The Coldest Winter Ever," Donald Goines' "Daddy Cool," Richard Preston's "The Hot Zone," Sister Jean Prejean's "Dead Man Walking," and Louise Erdrich's "The Last Report on the Miracles at Little No Horse." They, as well as the "Bible," "Qur'an," and other religious works like "The Tibetan Book

of the Dead” or “The Bhagava Gita,” feature descriptions of what one might consider violence, cruelty or brutality, or include repeated use of ‘foul language’ that some might consider inappropriate for younger teens,” said Jim Latham, proprietor along with his wife Pat, of Wilkie News of Dayton, Ohio, one of the plaintiffs. “Under this law, I could be prosecuted for permitting minors to buy or even browse such material, all of which is protected by the First Amendment, this is an intolerable situation.” Videos of movies like Saving Private Ryan, Goodfellas, Butch Cassidy and the Sundance Kid, The Godfather series, Schindler’s List and Unforgiven may also be at risk of prosecution.

H. Louis Sirkin, co-counsel for plaintiffs, said that, “although the legislature and Governor were repeatedly informed of the unconstitutionality of restricting material depicting or describing violence, glorifying crime, or containing repeated foul language, the legislature nevertheless reaffirmed these unconstitutional provisions and the governor signed the bill.” In 1992, a U.S. Circuit Court of Appeals struck down a similar Missouri law that restricted minors’ access to material depicting violence. As applied to the Internet, Sirkin pointed out, “this law attempts to criminalize Internet content while placing constitutional rights at risk. It restricts speech by and intended for adults in the guise of protecting minors.”

Even if the part of the law dealing with violence, foul language, cruelty and the glamorization of crime are stricken, the application of the law to the Internet remains “unconstitutional.” Laws in Arizona, Michigan, New Mexico, New York, Vermont and Virginia regulating material on the Internet deemed inappropriate for minors were struck down because they were violations of both the First Amendment and the Commerce Clause of the United States Constitution,” said Michael A. Bamberger of Sonnenschein Nath & Rosenthal, New York, co-counsel for the plaintiffs. All speech and content existing on the Internet is accessible within the state of Ohio, regardless of the geographic location from which it was posted. The broad definition under the Ohio law potentially threatens Internet users nationwide and even worldwide. This means that, since it’s impossible to screen out Ohio minors from the recipients of Internet content, *all* material must be suitable for *all* minors in order to comply with the law, preventing the dissemination of speech that is constitutionally protected for adults.

“The Internet, like our railways and highways, provides channels for interstate commerce that may not be burdened by inconsistent laws from state to state. The Commerce Clause prohibits a law such as this that conceivably imposes Ohio standards on persons posting Web pages or sending messages in any other state.”

Plaintiffs in the suit include Wilkie News, American Booksellers Foundation For Free Expression, Association of American Publishers, Freedom to Read Foundation, National Association of Recording Merchandisers, Ohio Newspaper Association, The Sexual Health Network, Inc., and Video Software Dealers of America. Plaintiffs are concerned that when the Ohio law becomes effective on August 6, 2002, it will prohibit them and their members – at the risk of jail or fines – from communicating valuable information on a wide range of topics, including art, literature, women’s health and free speech.

Attorneys representing the plaintiffs are Michael A. Bamberger of Sonnenschein Nath & Rosenthal in New York and H. Louis Sirkin of Sirkin, Pinales, Mezibov & Schwartz, Cincinnati, Ohio. Raymond Vasvari of the ACLU of Ohio and J. Michael Murray of Berkman, Gordon, Murray & De Van of Cleveland, Ohio, is of counsel.

The complaint is posted at [www.mediacoalition.org](http://www.mediacoalition.org).

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