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ESSENTIAL FACTS
ABOUT VIDEO GAMES AND COURT RULINGS

THERE HAVE BEEN MANY EFFORTS ON THE PART OF STATE AND LOCAL LEGISLATIVE BODIES TO REGULATE ACCESS TO GAMES.

However, courts, including the US Supreme Court, have ruled 13 times that computer and video games are protected speech, and efforts by these legislative bodies to ban or limit access to or the sale of games they find objectionable will inevitably run afoul of the First Amendment of the US Constitution.

US SUPREME COURT

BROWN V. ENTERTAINMENT MERCHANTS ASSOCIATION (EMA)/ENTERTAINMENT SOFTWARE ASSOCIATION (ESA)
JUNE 2011

On June 27, 2011, the US Supreme Court announced its decision in the case of Brown v. EMA/ESA, originally filed as Schwarzenegger v. EMA/ESA, ruling in favor of ESA. The Supreme Court's 7-2 decision struck down a 2005 California statute that would have regulated the sale and rental of "violent" computer and video games to minors. The ruling stated that computer and video games are entitled to the same constitutional protections as books, movies, music, and other forms of artistic expression.

In the majority opinion, Justice Antonin Scalia said California had not shown that video games were harmful to minors: "Psychological studies purporting to show a connection between exposure to violent video games and harmful effects on children do not prove that such exposure causes minors to act aggressively."

Of the "least restrictive" requirement for all attempts to limit free speech, the court stated: "California also cannot show that the Act's restrictions meet the alleged substantial need of parents who wish to restrict their children's access to violent videos. The video-game industry's voluntary rating system already accomplishes that to a large extent."

The Supreme Court challenged California's attempt to create a new category of restricted speech: "[T]he State wishes to create a wholly new category of content-based regulation that is permissible only for speech directed at children. That is unprecedented and mistaken. This country has no tradition of specially restricting children's access to depictions of violence."

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The Supreme Court also questioned the state's reasoning for singling video games out from other expressive works, noting thatclassic children's stories such as *Hansel and Gretel*, *The Complete Brothers Grimm Fairy Tales*, and *Cinderella* all contain elements of violence, as do other media that children are exposed to. "Since California has declined to restrict those other media, e.g., Saturday morning cartoons, its video-game regulation is wildly underinclusive, raising serious doubts about whether the State is pursuing the interest it invokes or is instead disfavoring a particular speaker or viewpoint."

In sum, the majority opinion found that the California law does not meet the strict scrutiny standard required of content-based restrictions on free speech and that it therefore does not comport with the First Amendment.

To view the decision in its entirety, please **click here.**

"SINCE CALIFORNIA HAS DECLINED TO RESTRICT THOSE OTHER MEDIA, E.G., SATURDAY MORNING CARTOONS, ITS VIDEO GAME REGULATION IS WILDLY UNDERINCLUSIVE, RAISING SERIOUS DOUBTS ABOUT WHETHER THE STATE IS PURSUING THE INTEREST IT INVOKES OR IS INSTEAD DISFAVORING A PARTICULAR SPEAKER OR VIEWPOINT."

JUSTICE ANTONIN SCALIA
US SUPREME COURT

US DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS

ESA, ET AL., V. CHICAGO TRANSIT AUTHORITY (CTA), ET AL.
JULY 2009

On May 17, 2010, the Honorable Rebecca R. Pallmeyer of the US District Court for the Northern District of Illinois granted a permanent injunction to prohibit the ban of violent video game advertisements by the CTA.

Judge Pallmeyer previously granted a preliminary injunction against the CTA on January 7, 2010, ruling that the ESA was likely to succeed on the merits of its claims at trial. In her decision, Judge Pallmeyer stated, "…the advertisements the CTA wishes to ban promote expression that has constitutional value and implicates core First Amendment concerns."

ESA filed the case in 2009, challenging CTA's prohibition of certain computer and video game advertisements as a violation of the guarantees of free speech under the First Amendment to the US Constitution.

The Court ruled against the CTA and dictated that prompt notice of the judgment be given to CTA officers and any agents, servants, employees, and attorneys. The CTA agreed not to "appeal or otherwise attack the validity or enforceability of the Consent Judgment and Permanent Injunction," and will recoup attorneys' fees and costs to the ESA.

To view the ruling in its entirety, please **click here.**

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US COURT OF APPEALS FOR THE NINTH CIRCUIT

VIDEO SOFTWARE DEALERS ASSOCIATION (VSDA), ET AL., V. SCHWARZENEGGER, ET AL.
FEBRUARY 2009

On February 20, 2009, the US Court of Appeals for the Ninth Circuit issued a unanimous ruling that upheld the US District Court for the Northern District of California's permanent injunction of California's violent video game law.

Upon exhaustively reviewing the research and studies provided by the state, the Honorable Consuelo M. Callahan stated that the court found there was no "substantial evidence that supports the Legislature's conclusion that violent video games cause psychological or neurological harm to minors."

Judge Callahan continued by stating that "there remain less-restrictive means of forwarding the state's purported interests, such as the improved ESRB rating system, enhanced educational campaigns, and parental controls."

To view the decision in its entirety, please **click here.**

US COURT OF APPEALS FOR THE EIGHTH CIRCUIT

ESA, ET AL., V. SWANSON, ET AL.
MARCH 2008

On March 17, 2008, the Honorable Roger Leland Wollman of the US Court of Appeals for the Eighth Circuit affirmed the decision of the US District Court for the District of Minnesota that the Minnesota statute seeking to penalize minors for the purchase or rental of M- or AO-rated games violated the First Amendment. The court held that the state must come forward with incontrovertible empirical proof of a causal relationship between exposure to video game violence and subsequent psychological dysfunction, which the state failed to do.

To view the decision in its entirety, please **click here.**

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ESSENTIAL FACTS ABOUT VIDEO GAMES AND COURT RULINGS

US DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA

EMA, ET AL., V. HENRY, ET AL.

SEPTEMBER 2007

On September 17, 2007, the Honorable Robin J. Cauthron of the US District Court for the Western District of Oklahoma issued a permanent injunction against that state's unconstitutional attempt at regulating computer and video games, ruling that video games are a form of creative expression entitled to protection under the First Amendment. In her decision, Judge Cauthron also found that there is no support or "substantial evidence" that video games are harmful to minors, writing that "there is a complete dearth of legislative findings, scientific studies, or other rationale to support passage of the Act."

On the issue of computer and video games' interactivity, Judge Cauthron found that, "the presence of increased viewer control and interactivity does not remove these games from the release of First Amendment protection." The court also ruled the law was underinclusive because a minor prevented from buying a video game with "inappropriate violence' may still legally buy or rent the book or movie on which the game was based."

On July 7, 2008, the state of Oklahoma reimbursed the ESA $56,367 for attorneys' fees incurred in the case.

For more information on the decision, please contact ESA.

US DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

VSDA, ET AL., V. SCHWARZENEGGER, ET AL.

AUGUST 2007

On August 6, 2007, the Honorable Ronald Whyte of the US District Court for the Northern District of California ruled in favor of VSDA and ESA's motion for summary judgment, permanently enjoining enforcement of the California violent video game law. The law would have prohibited the sale to minors of games depicting killing, maiming, dismembering, or sexually assaulting an image of a human being. The court acknowledged that video games are protected by the First Amendment and found that there was no evidence that playing violent games results in real world violence. In reviewing prior cases, Judge Whyte noted that while, "none of the cases holding violent video games laws unconstitutional are Ninth Circuit cases binding on this court, they nevertheless reflect a strong judicial antagonism toward such laws that this court should not ignore."

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Judge Whyte found that "the state has not shown that the Act will accomplish the goal of protecting children more effectively than existing, narrower industry standards…The court is not suggesting that the ESRB standards should be adopted as law, but rather, mentions those standards as ones that support the state's interest but do not involve state intrusions on First Amendment rights."
With respect to scientific evidence, Judge Whyte found that there is none showing that violent games, in the absence of other violent media, cause injury to children. Nor does it establish that video games, because of their interactive nature, are more harmful than movies, TV or other speech-related exposures. Finally, Judge Whyte said that some of the terms in the statute are broad and not sufficiently narrow.

On August 5, 2008, the state of California reimbursed the ESA $282,794 for attorney's fees incurred during their motion of summary Judgment as ordered by the court.

For more information on the decision, please contact ESA.

"[VIDEO GAMES] ARE AS MUCH ENTITLED TO THE PROTECTION OF FREE SPEECH AS THE BEST OF LITERATURE."

JUDGE JAMES BRADY
US DISTRICT COURT FOR THE MIDDLE DISTRICT OF LOUISIANA

US DISTRICT COURT FOR THE MIDDLE DISTRICT OF LOUISIANA

ESA, ET AL., V. FOTI, ET AL.
NOVEMBER 2006

On November 29, 2006, the Honorable James Brady of the US District Court for the Middle District of Louisiana ordered a permanent injunction to block implementation of a Louisiana statute seeking to ban the sale of violent video games to minors. Remarkably, Judge Brady issued his ruling from the bench rather than through a written order or opinion and stated that he was granting permanent injunction based on the reasoning behind the court's August ruling, which granted a preliminary injunction.

In his August decision, Judge Brady wrote that the state had overlooked a series of previous cases that found that video games are protected free speech. According to that opinion, video games "…are as much entitled to the protection of free speech as the best of literature." With regard to the "social science" presented, the judge stated, "it appears that much of the same evidence has been considered by numerous courts and in each case the connection was found to be tentative and speculative…The evidence that was submitted to the Legislature in connection with the bill that became the Statute is sparse and could hardly be called in any sense reliable." Significantly, Judge Brady found that, "less restrictive alternatives [which would achieve the state's goals] exist, including encouraging awareness of the voluntary ESRB video game rating system (which provides guidance

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to parents and other consumers), and the availability of parent controls that allow each household to determine which games their children can play."

Judge Brady also granted the ESA attorneys' fees in the amount of $91,900. In his order granting attorneys' fees, he stated, "[t]his Court is dumbfounded that the Attorney General and the state are in the position of having to pay taxpayer money as attorney's fees and costs in this lawsuit. The Act, which this Court found to be unconstitutional, passed through committees in both the State House and Senate, then through the full House and Senate, and to be promptly signed by the Governor. There are lawyers at each stage of this process. Some of the members of these committees are themselves lawyers. Presumably, they have staff members who are attorneys as well. The State House and Senate certainly have staff members who are attorneys. The Governor has additional attorneys - the executive counsel. Prior to the passage of the Act, there were a number of reported cases from a number of jurisdictions which held similar statutes to be unconstitutional (and in which the defendant was ordered to pay substantial attorney's fees). The Court wonders why nobody objected to the enactment of this statute. In this court's view, the taxpayers deserve more from their elected officials."

To view the decision in its entirety, please **click here.**

US COURT OF APPEALS FOR THE SEVENTH CIRCUIT

ESA, ET AL., V. BLAGOJEVICH, ET AL.

NOVEMBER 2006

On November 27, 2006, the Honorable Ann Claire Williams of the US Court of Appeals for the Seventh Circuit, ruled in favor of the ESA and reaffirmed the US District Court for the Northern District of Illinois' ruling that granted a permanent injunction halting implementation of the Illinois Sexually Explicit Video Game Law (SEVGL). The state of Illinois appealed the district court ruling with regards to the SEVGL, but not the portion of the law that dealt with violent video games.

Judge Williams reaffirmed the court's observation that children have First Amendment rights, stating that "history has shown the dangers of giving too much censorship power to the state over materials intended for young persons." The court ruled that the SEVGL failed to meet the standards required by the First Amendment. More specifically, the statute's definition of "sexually explicit" failed to meet a prong of the three pronged test required by the Supreme Court for the regulation of obscene material. Judge Williams further stated that the State of Illinois "created a statute that is constitutionally overbroad" in failing to include language in the statute that the sexually explicit material taken as a whole does not have serious literary, artistic, political, or scientific value, as required by the Supreme Court test.

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Judge Williams also discussed the state's exclusion of the requirement that any material in question be "considered as a whole" in determining criminal penalties. The judge used the video game *God of War* to illustrate the point that the overbroad nature of the SEVGL makes "likely the prospect of criminal prosecutions for the sale of games that have social importance for minors." As expressed by the Court, "[t]here is serious reason to believe that a statute sweeps too broadly when it prohibits a game that is essentially an interactive, digital version of *The Odyssey*."

Finally, the judge stated that the SEVGL could not survive constitutional muster because the state failed to consider other less restrictive alternatives to the SEVGL. "The state could have simply passed legislation increasing awareness among parents of the voluntary ESRB ratings system," the judge said.

The court also affirmed the district court's holding that the SEVGL's signage and brochure requirements are unconstitutional. Judge Williams found the signage requirements overbroad, stating that "[l]ittle imagination is required to envision the spacing debacle that could accompany a small retailer's attempt to fit three signs, each roughly the size of a large street sign, into such a space."

The Seventh Circuit Court awarded ESA attorneys' fees for the appeal in the amount of $34,550.

For more information on the decision, please contact ESA.

"THERE IS NO SHOWING WHATSOEVER THAT VIDEO GAMES, IN THE ABSENCE OF OTHER VIOLENT MEDIA, CAUSE EVEN THE SLIGHTEST INJURY TO CHILDREN."

JUDGE JAMES M. ROSENBAUM
US DISTRICT COURT FOR THE DISTRICT OF MINNESOTA

US DISTRICT COURT FOR THE DISTRICT OF MINNESOTA

ESA, ET AL., V. HATCH, ET AL.
JULY 2006

On July 31, 2006, the Honorable James M. Rosenbaum of the US District Court for the District of Minnesota issued a permanent injunction to halt implementation of a Minnesota law which sought to penalize minors for the purchase or rental of M- or AO-rated games.

In his decision, Judge Rosenbaum wrote "there is no showing whatsoever that video games, in the absence of other violent media, cause even the slightest injury to children." The Court then raised questions about the legislature's motives in passing such an obviously unconstitutional law, stating "several other states have tried to regulate minors' access to video games. Every effort has been stricken for violating the First Amendment...The Court will not speculate as to the motives of those

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who launched Minnesota's nearly doomed effort to "protect" our children. Who, after all, opposes protecting children? But, the legislators drafting this law cannot have been blind to its constitutional flaws."

Like all other courts to rule on this issue, Judge Rosenbaum rejected the science presented by the state purporting to show a link between violent games and violent behavior and thoughts. "Should the injunction be granted, the state argues the children of Minnesota's psychological well-being and ethical and moral development will be harmed. The problem with this argument is the state's inability to show the truth of this position. As shown above, there is a paucity of evidence linking the availability of video games with any harm to Minnesota's children at all. A person, indeed a legislature, may believe there is a link and a risk of harm, but absent compelling evidence, the belief is pure conjecture. The state's professed concerns, in the absence of evidence showing them to be well-founded, do not outweigh the chilling effect on free speech that would result from the Act becoming effective."

The court also rejected the state's attempt to incorporate ESRB ratings into the law, stating that such a delegation of authority to a private entity violates the First Amendment. The court found the retailer signage requirements unconstitutional as well.

In March 2008, The US Court of Appeals for the Eighth Circuit upheld the district court's ruling. The attorney general then requested an en banc review of the appellate decision. The attorney general's motion was denied in May, 2008.

On June 30, 2008, Minnesota paid the ESA $65,000 in attorneys' fees and expenses as ordered by the court.

For more information on the decision, please contact ESA.

US DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN

ESA, ET AL., V. GRANHOLM, ET AL.

APRIL 2006

On April 3, 2006, the Honorable George Caram Steeh of the US District Court for the Eastern District of Michigan issued a permanent injunction halting the implementation of a Michigan bill, which sought to ban violent video game sales to minors.

In his decision, the Judge Steeh firmly dismissed the state's claim that the interactive nature of video games makes them less entitled to First Amendment protection. "The interactive, or functional aspect, in video games can be said to enhance the expressive elements even more than other media by drawing the player closer to the characters and becoming more involved in the plot of the game

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than by simply watching a movie or television show," Judge Steeh wrote. "It would be impossible to separate the functional aspects of a video game from the expressive, inasmuch as they are so closely intertwined and dependent on each other in creating the virtual experience."

Regarding the "science" presented by the state purporting to show a link between violent games and violent behavior and thoughts, the court said, "Dr. [Craig] Anderson's studies have not provided any evidence that the relationship between violent video games and aggressive behavior exists." It then added that the evidence introduced alleging that new brain mapping studies show a link between violent games and aggressive thought is equally unpersuasive. "The research not only fails to provide concrete evidence that there is a connection between violent media and aggressive behavior, it also fails to distinguish between video games and other forms of media," Judge Steeh wrote.

Addressing the state's claims that video games are more harmful than TV because the player controls the action, the court said there is no evidence to support such a claim, adding that "it could just as easily be said that the interactive element in video games acts as an outlet for minors to vent their violent or aggressive behavior, thereby diminishing the chance they would actually perform such acts in reality."

"Not only does the Act not materially advance the state's stated interest, but it appears to discriminate against a disfavored 'newcomer' in the world of entertainment media. Thus, 'singling out' the video game industry does not advance the state's alleged goal," Judge Steeh concluded.

On November 30, 2006, Judge Steeh ordered the state of Michigan to pay ESA, EMA and the Michigan Retailers Association $182,000 in attorneys' fees and costs.

For more information on the decision, please contact ESA.

US DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS

ESA, ET AL., V. BLAGOJEVICH, ET AL.

DECEMBER 2005

In a strongly worded 53-page decision, Judge Matthew Kennelly permanently enjoined the Illinois Violent Video Games Law and Sexually Explicit Video Games Law on December 2, 2005.

Resoundingly dismissing the research in support of the statute presented by the state of Illinois, Judge Kennelly ruledthat the state has "failed to present substantial evidence showing that playing violent video games cause minors to have aggressive feelings or engage in aggressive behavior." The decision came after a three-day trial in which the state presented testimony from Dr. Craig Anderson and Dr. William Kronenberger in support of its position. With respect to Dr. Anderson's claim that violent video games cause aggressive behavior, the court said that "neither Dr. Anderson's

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testimony nor his research establish a solid causal link between violent video game exposure and aggressive thinking and behavior… researchers in this field have not eliminated the most obvious alternative explanation: aggressive individuals may themselves be attracted to violent video games." In response to Dr. Kronenberger's claim that violent video games cause a reduction in brain activity, the court said, "there is barely any evidence at all, let alone substantial evidence, showing that playing violent video games causes minors to 'experience a reduction of activity in the frontal lobes of the brain which is responsible for controlling behavior.'"

In his decision, Judge Kennelly found fault with the argument that legislation is the answer to protecting children from inappropriate media, writing that "if controlling access to allegedly 'dangerous' speech is important in promoting the positive psychological development of children, in our society that role is properly accorded to parents and families, not the state."

Finally, Judge Kennelly determined that "the state may have a compelling interest in assisting parents with regulating the amount of media violence consumed by their children, but it does not have a compelling interest in singling out video games in this regard. In fact, the under inclusiveness of this statute — given that violent images appear more accessible to unaccompanied minors in other media — indicates that regulating violent video games is not really intended to serve the proffered purpose."

After striking down the Illinois law as unconstitutional, Judge Kennelly ordered the state of Illinois to pay the video game industry $510,000 to cover its attorneys' fees in the case.

For more information on the decision, please contact ESA.

"THE COURT FINDS THAT THE CURRENT STATE OF RESEARCH CANNOT SUPPORT THE LEGISLATIVE DETERMINATIONS THAT UNDERLIE THE ACT BECAUSE THERE HAS BEEN NO SHOWING THAT EXPOSURE TO VIDEO GAMES THAT 'TRIVIALIZE VIOLENCE AGAINST LAW ENFORCEMENT OFFICERS' IS LIKELY TO LEAD TO ACTUAL VIOLENCE AGAINST SUCH OFFICERS."

JUDGE ROBERT LASNIK
US DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON

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US DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON

VSDA, ET AL., V. MALENG, ET AL.

JULY 2004

On July 15, 2004, the Honorable Robert Lasnik of the US District Court for the Western District of Washington permanently enjoined a Washington state law that would prohibit the sale of video games that depict violence against law enforcement officers.

In his ruling, Judge Lasnik rejected the state's argument that video games should be regulated under obscenity law, and declined the state's invitation to expand the narrowly defined obscenity exception to include portrayals of violence. Judge Lasnik wrote that "such depictions [of violence] have been used in literature, art, and the media to convey important messages throughout our history, and there is no indication that such expressions have ever been excluded from the protections of the First Amendment or subject to government regulation." Reinforcing First Amendment protections afforded to games, Judge Lasnik wrote: "The games at issue...[have] story lines, detailed artwork, original scores, and a complex narrative which evolves as the player makes choices and gains experiences. All of the games provided to the Court for review are expressive and qualify as speech for purposes of the First Amendment. In fact, it is the nature and effect of the message being communicated by those video games which prompted the state to act in this sphere."

Dismissing the claims of the state's expert witnesses and the studies presented, Judge Lasnik determined that "the Court finds that the current state of research cannot support the legislative determinations that underlie the Act because there has been no showing that exposure to video games that 'trivialize violence against law enforcement officers' is likely to lead to actual violence against such officers."

Additionally, Judge Lasnik found the state's attempt to ban the sale of games depicting violence against law enforcement officers was impossibly vague and "failed to give a person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly."

After striking down the Washington law as unconstitutional, Judge Lasnik ordered the state of Washington to pay the video game industry $344,000 to cover its attorneys' fees in the case.

For more information on the decision, please contact ESA.

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US COURT OF APPEALS FOR THE EIGHTH CIRCUIT

IDSA V. ST. LOUIS COUNTY

SEPTEMBER 2002

On September 25, 2002, in a unanimous decision of a three-judge panel, the Honorable Morris S. Arnold of the US Court of Appeals for the Eight Circuit struck down the St. Louis violent video game law and found that the First Amendment protects a wide array of content, including video games.

The Eighth Circuit held that if "the First Amendment is versatile enough to 'shield [the] painting of Jackson Pollack, music of Arnold Schoenberg, or Jabberwocky verse of Lewis Carroll,' ... we see no reason why the pictures, graphic design, concept art, sounds, music, stories and narrative present in video games are not entitled to similar protection," and then went on to elaborate on First Amendment protections, stating that "We do not mean to denigrate the government's role in supporting parents, or the right of parents to control their children's exposure to graphically violent materials. We merely hold that the government cannot silence protected speech by wrapping itself in the cloak of parental authority... To accept the County's broadly-drawn interest as a compelling one would be to invite legislatures to undermine the First Amendment rights of minors willy-nilly under the guise of promoting parental authority."

Regarding the concern that games are harmful to minors because of their content, the court found the county's evidence and, once again, studies by Craig Anderson, et al., to be unpersuasive. The opinion stated that the "conclusion that there is a strong likelihood that minors who play violent video games will suffer a deleterious effect on their psychological health is simply unsupported in the record... [T]his vague generality falls far short of a showing that video games are psychologically deleterious. The County's remaining evidence included the conclusory comments of county council members; a small number of ambiguous, inconclusive, or irrelevant (conducted on adults, not minors) studies; and the testimony of a high school principal who admittedly had no information regarding any link between violent video games and psychological harm...Where First Amendment rights are at stake, 'the Government must present more than anecdote and supposition.'"

After striking down the St. Louis law as unconstitutional, the court ordered the defendants to pay the video game industry $180,000 to cover its attorneys' fees in the case.

To view the decision in its entirety, please **click here.**

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ESSENTIAL FACTS ABOUT VIDEO GAMES AND COURT RULINGS

US COURT OF APPEALS FOR THE SEVENTH CIRCUIT

AMERICAN AMUSEMENT MACHINE ASSOCIATION, ET AL. V. KENDRICK, ET AL.
MARCH 2001

In a unanimous three-judge panel decision, the Honorable Richard A. Posner of the Court of Appeals for the Seventh Circuitdeclared the Indianapolis Arcade Ordinance unconstitutional, reaffirming that children have First Amendment rights.

In his ruling, Judge Posner said that "to shield children right up to the age of 18 from exposure to violent descriptions and images would not only be quixotic, but deforming; it would leave them unequipped to cope with the world as we know it. Maybe video games are different. They are, after all, interactive. But this point is superficial, in fact erroneous. All literature (here broadly defined to include movies, television, and the other photographic media, and popular as well as highbrow literature) is interactive; the better it is, the more interactive. Literature when it is successful draws the reader into the story, makes him identify with the characters, invites him to judge them and quarrel with them, to experience their joys and sufferings as the reader's own. Protests from readers caused Dickens to revise *Great Expectations* to give it a happy ending, and tourists visit sites in Dublin and its environs in which the fictitious events of *Ulysses* are imagined to have occurred. The cult of Sherlock Holmes is well known."

In reference to scientific studies, such as research by Craig Anderson, et al., provided to the court arguing that interactive games cause violent behavior, the Court wrote "there is no indication that the games used in the studies are similar to those in the record of this case or to other games likely to be marketed in game arcades in Indianapolis. The studies do not find that video games have ever caused anyone to commit a violent act, as opposed to feeling aggressive, or have caused the average level of violence to increase anywhere. And they do not suggest that it is the interactive character of the games, as opposed to the violence of the images in them, that is the cause of the aggressive feelings. The studies thus are not evidence that violent video games are any more harmful to the consumer or to the public safety than violent movies or other violent, but passive, entertainments. It is highly unlikely that they are more harmful, because 'passive' entertainment aspires to be interactive too and often succeeds."

After striking down the Indianapolis Arcade Ordinance as unconstitutional, the court ordered the defendants to pay the arcade industry $318,000 to cover their attorney's fees in this case.

To view the decision in its entirety, please **click here**.