

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

MAINE INDEPENDENT COLLEGES
ASSOCIATION, MAINE PRESS
ASSOCIATION, NETCHOICE, and REED
ELSEVIER INC.,

Plaintiffs,

v.

GOVERNOR JOHN BALDACCI,
ATTORNEY GENERAL JANET MILLS, in
their official and individual capacities, and
JOHN DOE,

Defendants.

Civil Action No.:

PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Plaintiffs Maine Independent Colleges Association, Maine Press Association, NetChoice, and Reed Elsevier Inc. (collectively, the "Plaintiffs") have commenced this action to declare Public Law 2009, Chapter 230 ("Chapter 230" or the "Law") unconstitutional and enjoin defendants' enforcement of the Law. Plaintiffs hereby move this Court to issue a preliminary injunction, **finding**:

A. That plaintiffs have shown a likelihood of success on their claims that Chapter 230 violates the First Amendment and Commerce Clause of the United States Constitution and is preempted by the Children's Online Privacy Protection Act (codified at 15 U.S.C. § 6501 *et seq.*); and

B. That plaintiffs have shown that they will suffer irreparable harm absent an injunction; that an injunction will not burden the defendants; and that the public interest in free speech weighs in favor of the injunction;

and therefore enjoining:

C. Defendant Governor Baldacci and Attorney General Mills from enforcing Public Law 2009, Chapter 230 (“Chapter 230”); and

D. Defendant John Doe from enforcing any private right of action under Chapter 230.

In support of this Motion, plaintiffs rely on the accompanying Memorandum of Law and their Verified Complaint.

For the foregoing reasons, the Maine Independent Colleges Association, Maine Press Association, NetChoice and Reed Elsevier Inc., respectfully request that this Court grant this Motion.

Respectfully submitted,

MAINE INDEPENDENT COLLEGES
ASSOCIATION, MAINE PRESS
ASSOCIATION, REED ELSEVIER INC.,
and NETCHOICE,

Of Counsel for:

By their attorneys,

MAINE INDEPENDENT COLLEGES
ASSOCIATION
MAINE PRESS ASSOCIATION

Jonathan S. Piper
Sigmund D. Schutz
Daniel W. Walker
PRETI FLAHERTY BELIVEAU &
PACHIOS LLP
One City Center
Portland, ME 04101
(207) 791-3000 (*telephone*)
(207) 791-3111 (*fax*)

/s/ James T. Kilbreth
James T. Kilbreth
Michael V. Saxl
VERRILL DANA LLP
PO Box 586
One Portland Square
Portland, ME 04112-0586
(207) 774-4000 (*telephone*)
(207) 774-7499 (*fax*)

Bruce E. Falby, Esq. (BBO #544143)
Brooks Ames, Esq. (BBO #641192)
Matthew Iverson, Esq. (BBO # 653880)
DLA PIPER LLP (US)
33 Arch Street, 26th Floor
Boston, MA 02110

(617) 406-6000 (*telephone*)
(617) 406-6100 (*fax*)

Jim Halpert, Esq.
David Lieber, Esq.
Micah R. Thorner, Esq.
DLA PIPER LLP (US)
500 Eighth Street, NW
Washington, DC 20004
(202) 799-4000 (*telephone*)
(202) 799-5000 (*fax*)

Dated: August 26, 2009

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Plaintiffs' Motion for Preliminary Injunction and accompany Memorandum were served electronically on Paul D. Stern, Esq.

/s/ James T. Kilbreth

James T. Kilbreth
VERRILL DANA LLP
PO Box 586
One Portland Square
Portland, ME 04112-0586
(207) 774-4000 (*telephone*)
(207) 774-7499 (*fax*)

1674601_1.DOC