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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

SARAH BRADBURN, PEARL
CHERRINGTON, CHARLES HEINLEN
and the SECOND AMENDMENT
FOUNDATION,

Plaintiffs,

v.

NORTH CENTRAL REGIONAL LIBRARY
DISTRICT,

Defendant.

No.

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

I. PRELIMINARY STATEMENT

1. Plaintiffs challenge the constitutionality of a policy adopted by the North Central Regional Library District (“NCRL”) whereby the NCRL will not, at the request of adults who wish to access constitutionally-protected speech, disable Internet filters that the NCRL has installed on its publicly-available computer terminals. The NCRL’s policy of refusing to disable its Internet filters upon request is restricting the ability of speakers, content providers and patrons of the NCRL’s public library branches to access the contemporary marketplace of ideas. Plaintiffs seek permanent injunctive relief that will end this unlawful form of censorship.

1 **II. JURISDICTION AND VENUE**

2 2. The Court has original jurisdiction over the subject matter of this dispute
3 pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3), as this is an action to redress the deprivation,
4 under color of state law, of rights secured by the Constitution and laws of the United States.
5 Plaintiffs seek remedies under 28 U.S.C. §§ 2201 and 2202, 42 U.S.C. §§ 1983 and 1988, and
6 Fed. R. Civ. P. 65.

7 3. The Court has supplemental jurisdiction over Plaintiffs' claim for violation of
8 Article I, Section 5 of the Washington State Constitution pursuant to 28 U.S.C. § 1367(a).

9 4. Defendant NCRL resides, is found, has agents and transacts business in this
10 judicial district, and its acts in violation of the United States and Washington State
11 Constitutions have arisen and continue to arise in this judicial district. Venue is proper in this
12 judicial district pursuant to 28 U.S.C. § 1391(b).

13 **III. PARTIES**

14 5. Plaintiff Sarah Bradburn is a resident of Republic, Ferry County, Washington.
15 Ms. Bradburn is a patron of the Republic branch of the NCRL system. She uses the Republic
16 Public Library's computers to access the Internet for lawful purposes.

17 6. Plaintiff Pearl Cherrington is a resident of Twisp, Okanogan County,
18 Washington. She is a patron of the Twisp branch of the NCRL system. She uses the Twisp
19 Public Library's computers to access the Internet for lawful purposes.

20 7. Plaintiff Charles Heinlen is a resident of Okanogan, Okanogan County,
21 Washington. He is a patron of the Omak, Okanogan and Wenatchee branches of the NCRL
22 system. He uses the Omak, Okanogan and Wenatchee Public Libraries' computers to access
23 the Internet for lawful purposes, and lawfully to send and receive email messages.

24 8. Plaintiff the Second Amendment Foundation ("SAF") is a not-for-profit
25 education, research, publishing and legal action group focusing on the constitutional right to
26 own and possess firearms. SAF is headquartered in Bellevue, Washington, and has more than

1 600,000 members nationwide, including members in Chelan, Douglas, Ferry, Grant and
2 Okanogan Counties. SAF maintains a site on the World Wide Web (“Web”) at www.saf.org,
3 and sponsors several publications that are available online. SAF chose this method of
4 publication as an economical and effective way to communicate its views to its members and
5 to interested persons wherever they might live and however they might gain access to the
6 Internet. SAF wishes to communicate the contents of its Web site and sponsored publications
7 to Internet users in North Central Washington who may rely on public library computers for
8 Internet access.

9 9. Defendant the North Central Regional Library District is a municipal
10 corporation that was established in 1960 by a vote of the rural residents of Chelan, Douglas,
11 Ferry, Grant and Okanogan Counties. The NCRL was formed and is operating under Chapter
12 27 of the Revised Code of Washington and other statutes applicable to inter-county rural
13 library districts. The NCRL was organized to provide library services for, and operate branch
14 libraries in all areas outside of incorporated cities and towns within Chelan, Douglas, Ferry,
15 Grant and Okanogan Counties, as well as incorporated cities and towns that are either annexed
16 to the aforementioned counties or have entered into service contracts with the NCRL. The
17 NCRL operates 28 community libraries in Chelan, Douglas, Ferry, Grant and Okanogan
18 Counties. The actions of the NCRL that form the basis of this Complaint for Declaratory and
19 Injunctive Relief have been taken under color of statutes, regulations and other laws of the
20 State of Washington.

21 **IV. FACTS**

22 10. The Internet is a network of interlinked computers and computer networks.
23 Broadband Internet connections are becoming increasingly common, but Internet and
24 broadband penetration rates in rural areas lag behind those in urban and suburban areas. It is
25 thus particularly important that public libraries in rural areas and in small cities and towns
26 provide Internet access – if possible via a broadband connection.

1 11. The Web consists of a vast number of documents stored in computers around
2 the world. Internet users employ tools such as browsers and search engines to locate Web
3 pages, which are accessible via hyperlinks. An enormous amount of information is available
4 on the Web – including art, literature, medical and scientific information, humor, news, sports,
5 religion, history, political commentary, music and government information. Sexually-oriented
6 material is also available, but it constitutes a very small fraction of total Web content.

7 12. The NCRL recognizes that the Web contains materials that are enriching to
8 users of all ages. In furtherance of its mission to promote reading and lifelong learning, and to
9 meet the diverse educational, vocational and recreational needs of its patrons, the NCRL
10 provides public Internet access at all of its library branches.

11 13. An Internet filter is a software product that filters Web content by keyword or
12 that blocks particular Web sites based on their Uniform Resource Locator (“URL”). An
13 Internet user attempting to view a blocked Web site typically receives an error message
14 indicating that access has been denied. Web content at all NCRL branches is filtered. On
15 information and belief, the NCRL filters Web content using a server software product called
16 SmartFilter, Bess edition, manufactured by California-based Secure Computing Corporation.

17 14. Secure Computing categorizes Web sites by means of a secret algorithm and
18 review by human employees. Web sites are currently sorted into the following categories:
19 Alcohol, Anonymizers, Anonymizing Utilities, Art/Culture/Heritage, Auction, Business, Chat,
20 Computing/Internet, Consumer Information, Criminal Skills, Dating/Social, Drugs,
21 Education/Reference, Entertainment/Recreation/Hobbies, Extreme, Finance, For Kids, Forum
22 Bulletin Boards, Gambling, Gambling Related, Game/Cartoon Violence, Games, General
23 News, Government/Military, Gruesome Content, Hacking, Hate Speech, Health, History,
24 Humor, Information Security, Instant Messaging, Interactive Web Applications, Internet
25 Radio/TV, Job Search, Malicious Sites, Media Download, Messaging, Mobile Phone,
26 Moderated, Non-Profit Organizations/Advocacy Groups, Nudity, P2P/File Sharing, Personal

1 Network Storage, Personal Pages, Phishing, Politics/Opinion, Pornography, Portal Sites,
2 Profanity, Provocative Attire, Religion and Ideology, Remote Access, Resource Sharing,
3 School Cheating Information, Search Engines, Sexual Materials, Shareware/Freeware,
4 Shopping/Merchandizing, Spam Email URLs, Sports, Spyware, Stock Trading, Streaming
5 Media, Technical/Business Forums, Text/Spoken Only, Tobacco, Travel, Usenet News,
6 Violence, Visual Search Engine, Weapons, Web Ads, Web Mail, Web Phone. The Web sites
7 contained in the above-referenced categories contain a significant quantity of non-obscene
8 expression that is protected by the First Amendment of the Unites States Constitution and by
9 Article I, Section 5 of the Washington State Constitution.

10 15. The end user of Secure Computing's SmartFilter product can choose which
11 categories of Web sites to block. On information and belief, the NCRL has configured its
12 SmartFilter software to block Web sites in the following categories, or in categories
13 equivalent to the following categories: Alcohol, Anonymizers, Chat, Criminal Skills,
14 Dating/Social, Drugs, Extreme, Gambling, Game/Cartoon Violence, Gruesome Content,
15 Hacking, Hate Speech, Malicious Sites, Nudity, P2P/File Sharing, Personal Pages, Phishing,
16 Pornography, Profanity, School Cheating Information, Sexual Materials, Spyware, Tobacco,
17 Violence, Visual Search Engine and Weapons. The NCRL's configuration of its SmartFilter
18 software in the manner described above results in the blocking of a substantial amount of
19 expression that is protected by the First Amendment of the Unites States Constitution and by
20 Article I, Section 5 of the Washington State Constitution.

21 16. The NCRL will not, upon request, disable the Internet filters that it has
22 installed on its publicly-available computers in order to allow adult library patrons to conduct
23 bona fide research via the Internet or to access the Web for other lawful purposes.

24 17. Plaintiff Sarah Bradburn has attempted to use computers maintained by the
25 NCRL to conduct Internet research – particularly regarding alcohol and drug-addiction topics
26 – in connection with academic assignments. When Ms. Bradburn tried to access material and

1 obtain information relating to youth tobacco usage, the Internet filters that the NCRL had
2 installed on its computers prevented her from doing so. The material and information to
3 which Ms. Bradburn has been denied access is protected by the First Amendment of the
4 Unites States Constitution and by Article I, Section 5 of the Washington State Constitution.

5 18. Plaintiff Pearl Cherrington is a professional photographer, her work consisting
6 mostly of landscapes and outdoor scenes. She has attempted to use computers maintained by
7 the NCRL to conduct Internet research and obtain information regarding art topics – including
8 art galleries that might be interested in displaying her work. She has also attempted to use
9 NCRL computers to conduct Internet research and obtain information about health topics.
10 Her ability to conduct her research and obtain information via the Internet has been restricted
11 by the filters that the NCRL has installed on its computers. The material and information to
12 which Ms. Cherrington has been denied access is protected by the First Amendment of the
13 Unites States Constitution and by Article I, Section 5 of the Washington State Constitution.

14 19. Plaintiff Charles Heinlen has attempted to use computers maintained by the
15 NCRL to conduct Internet research and obtain information on topics relating to firearms. His
16 ability to conduct research and access information related to firearms has been restricted by
17 the Internet filters that the NCRL has installed on its computers. The filters have also denied
18 Mr. Heinlen access to various dating sites, publications such as Soldier of Fortune Magazine
19 (www.sofmag.com), the Web log (or “blog”) that he maintains at www.myspace.com, and
20 photographs embedded in commercial emails that are sent to his Hotmail and Yahoo! email
21 accounts. The material and information to which Mr. Heinlen has been denied access is
22 protected by the First Amendment of the Unites States Constitution and by Article I, Section 5
23 of the Washington State Constitution.

24 20. One of the publications that Plaintiff SAF sponsors is Women & Guns, a
25 magazine with its own Web site, located at www.womenandguns.com. Women & Guns is
26 written and edited by women, for women. It covers topics such as self-defense, personal

1 protection, recreational shooting, new products and legal issues. Women & Guns' Web site
2 has been blocked by the Internet filters that the NCRL has installed on its computers. The
3 information contained in Women & Guns is protected by the First Amendment of the United
4 States Constitution and by Article I, Section 5 of the Washington State Constitution. Because
5 the NCRL's Internet filters have blocked access to www.womenandguns.com on the NCRL's
6 computers, SAF has been prevented from communicating with Internet users in North Central
7 Washington who rely on public library computers for Internet access.

8 21. The NCRL's policy of not disabling its Internet filters upon the request of an
9 adult has rendered inaccessible to library patrons a large number of Web sites containing a
10 substantial amount of expression that is protected by the First Amendment of the United
11 States Constitution and by Article I, Section 5 of the Washington State Constitution; has
12 undermined the ability of Plaintiffs Sarah Bradburn, Pearl Cherrington and Charles Heinlen to
13 view constitutionally-protected speech, conduct bona fide research and use the Internet to
14 access the Web for lawful purposes; and has prevented SAF from making constitutionally-
15 protected speech available to patrons of the NCRL.

16 **V. CAUSES OF ACTION**

17 **A. VIOLATION OF THE FIRST AMENDMENT** 18 **OF THE UNITED STATES CONSTITUTION**

19 22. Plaintiffs reallege and incorporate by reference herein the allegations of
20 paragraphs 1 through 21 above.

21 23. The NCRL's policy of refusing to disable its Internet filters upon the request of
22 adults who wish to conduct bona fide research via the Internet or to access the Web for other
23 lawful purposes violates the First Amendment of the United States Constitution (which is
24 made applicable to state entities through the Fourteenth Amendment) on its face and as
25 applied.
26

1 **B. VIOLATION OF ARTICLE I, SECTION 5**
2 **OF THE WASHINGTON STATE CONSTITUTION**

3 24. Plaintiffs reallege and incorporate by reference herein the allegations of
4 paragraphs 1 through 23 above.

5 25. The NCRL's policy of refusing to disable its Internet filters upon the request of
6 adults who wish to conduct bona fide research via the Internet or to access the Web for other
7 lawful purposes violates Article I, Section 5 of the Washington State Constitution on its face
8 and as applied.

9 **VI. PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiffs Sarah Bradburn, Pearl Cherrington, Charles Heinlen and the
11 Second Amendment Foundation pray for relief as follows:

12 A. For a declaration that the NCRL's policy of refusing to disable its Internet
13 filters upon the request of adults who wish to conduct bona fide research via the Internet or to
14 access the Web for other lawful purposes violates the First Amendment of the United States
15 Constitution;

16 B. For a declaration that the NCRL's policy of refusing to disable its Internet
17 filters upon the request of adults who wish to conduct bona fide research via the Internet or to
18 access the Web for other lawful purposes violates Article I, Section 5 of the Washington State
19 Constitution;

20 C. For an order directing the NCRL and its officers, agents, servants and
21 employees to disable the NCRL's Internet filters upon the request of adults who wish to
22 conduct bona fide research via the Internet or to access the Web for other lawful purposes;

23 D. For an award of reasonable attorney fees and costs of suit pursuant to 42 U.S.C.
24 § 1988; and

25 E. For such other and further relief as the Court may deem just and equitable.

26 DATED this _____ day of November, 2006.

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By _____
Duncan Manville, WSBA #30304
Robert A. Hyde, WSBA #33593

On behalf of the ACLU of Washington

ACLU OF WASHINGTON

By _____
Aaron Caplan, WSBA #22525

Attorneys for Plaintiffs Sarah Bradburn, Pearl
Cherrington, Charles Heinlen and the Second
Amendment Foundation