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**SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF ALAMEDA, LIVERMORE-PLEASANTON-DUBLIN BRANCH**

KATHLEEN R., in her capacity as an )  
individual, KATHLEEN R., in her )  
capacity as a taxpayer, and )  
KATHLEEN R., in her capacity as )  
guardian ad litem for BRANDON P., )  
a minor )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
CITY OF LIVERMORE and DOES 1 )  
TO 10 )  
 )  
Defendants. )

**COMPLAINT FOR INJUNCTIVE RELIEF**

Plaintiff Kathleen R., an individual, Kathleen R., in her capacity as a taxpayer, and Kathleen R., petitioner for guardian ad litem for Brandon P., a minor, alleges:

1. Defendant [City of Livermore](#) is a municipal entity which has authority over the [library system of the City of Livermore](#). Said defendant, using public money, is providing to minors equipment and facilities which allow said minors to obtain obscene pictures and pictures harmful to minors such as the following:
2. Plaintiff is a natural person, a taxpayer, and the mother of Brandon P., a male minor.
3. The acts complained of in this complaint have taken place and continue to take place in Livermore, California.

**CAUSES OF ACTION**

4. The City of Livermore and DOES 1 to 10 maintain a library system which includes a branch commonly called the Civic Center branch ("library"). At the library, there are a number of public access computers which individuals, without regard or consideration of their age, are free to use.

5. Certain of these computers ("computers") have a data link connection to what is commonly known as the Internet or the "World Wide Web" ("web"). Using these computers, users can request text, images, and other computerized information from computers in other locations which themselves have been connected to the web.

6. These computers are paid for in whole or in part by public funds belonging to the City of Livermore.

7. On or about June 13, 1997, without the permission or consent of his parents, Brandon P. went to the library and brought along with him a computer floppy disk ("disk").

8. At the library, Brandon P. stationed himself in front of one of the computers with web access.

9. Using the computer, Brandon P. accessed web sites containing color images of semi-nude and nude women positioned in sexually alluring and/or explicit poses designed to appeal to the viewer's prurient interest. Some of the images depicted one or more women engaging in sexual activity.

10. Using the computer, Brandon P. transferred an exact duplicate of various of the images from the computer screen to the disk using a process called "downloading."

11. These images were and are harmful to minors, and at least some of them were obscene.

12. Brandon P. then left the library and, without any adult's knowledge or permission, proceeded to use a computer at a relative's house to print out the images. Brandon P. then allowed one or more minors to view certain of the images.

13. On or about the next day, Brandon P. again returned to the library and proceeded again to download sexually explicit images to the disk and again later print them out at a relative's house.

14. Brandon P. did this activity approximately 10 times. At no time were his parents aware of his activities. Copies of some of the printed images described in paragraphs 12 and 13 are attached to this complaint as Exhibit A and are specifically marked 001 - 015. In addition, the image shown in paragraph 1 of this complaint is part of one of the printed images described in paragraphs 12 and 13.

15. The City of Livermore has been made aware that minors and others can and have used their computers with web access to view and download sexually explicit images and sexually obscene images. In spite of this, the City of Livermore continues to allow minors to use these computers. A copy of this lawsuit in draft form was forwarded to the City Attorney of Livermore on March 31, 1998. His three page response is attached hereto as Exhibit B.

## **CAUSES OF ACTION**

### **First Cause of Action (Waste of Public Funds)**

16. Paragraphs 1 to 15 are hereby incorporated as if fully set forth herein.
17. The City of Livermore expends public funds on its library computer system with web access.
18. Each time such a computer accesses, displays, and/or prints obscene material, public funds are being spent.
19. Using public funds to access, acquire, display, and/or print obscene material is a waste of public funds.
20. Each time such a computer accesses, displays, and/or prints matter harmful to minors at the request of or for the use of a minor, public funds are being spent.
21. Using public funds to access, display, and/or prints matter harmful to minors at the request of or for the use of a minor is a waste of public funds.
22. The City of Livermore knows that this waste of public funds is occurring but refuses to prohibit such waste.
23. Based on this waste of public funds, plaintiff requests an injunction prohibiting such waste under CC.P. §526(a) as specified in the prayer of the complaint, which prayer is incorporated herein as if fully set forth.

### **Second Cause of Action (Nuisance)**

24. Paragraphs 1 to 15 are hereby incorporated as if fully set forth herein.
25. The City of Livermore knows that people can, have been, and are using its computers to access, acquire, display, and/or print obscene material. Moreover, any person who is in the vicinity of the computer and glances at it when obscene images are being displayed will be exposed to obscene material even if they did not intend to view it.
26. Allowing the computers to access, acquire, display, and/or print obscene material is a public nuisance.
27. The City of Livermore knows that minors can, have been, and are using its computers to access, acquire, display, and/or print sexual and other material harmful to minors.
28. Allowing minors to use the computers to access, acquire, display, and/or print sexual and other material harmful to minors is a public nuisance.

29. Plaintiff requests an injunction against the City of Livermore to prevent it from maintaining this public nuisance as specified in the prayer of the complaint, which prayer is incorporated herewith as if fully set forth.

30. Plaintiffs have suffered special harm as a result of this nuisance.

31. Plaintiff further requests declaratory relief stating that the City of Livermore is legally liable for all future damage to plaintiff's children caused by her children accessing, acquiring, displaying, and/or printing sexual and other material harmful to minors on any library computer connected to the Internet or World Wide Web.

### **Third Cause of Action (Premises Liability)**

32. Paragraphs 1 to 15 are hereby incorporated as if fully set forth herein.

33. The City of Livermore knows that children can, have been, and are using its computers to access, acquire, display, and/or print sexual and other material harmful to minors.

34. The library premises are unsafe for children because of the presence of this material which is harmful to minors and because the City of Livermore refuses to take steps to prevent children from being so harmed while on their premises.

35. Brandon P., a minor, has been several times exposed to the harmful material without either of his parent's consent, and it is possible that such harm could happen again in spite of reasonable efforts by the parents to prevent this.

36. In order to prevent a multiplicity of damage suits, Plaintiff requests an injunction against the City of Livermore to prevent it from maintaining these dangerous premises as specified in the prayer of the complaint, which prayer is incorporated herewith as if fully set forth.

37. Plaintiff further requests declaratory relief stating that the City of Livermore is legally liable for all future damage to plaintiff's children caused by the children accessing, acquiring, displaying, and/or printing sexual and other material harmful to minors on any library computer connected to the Internet or World Wide Web.

Wherefore, plaintiffs prays for relief as follows:

1. On the First Cause of Action, plaintiff prays for an injunction against the City of Livermore preventing it or its agents, servants, and employees from spending any public funds on the acquisition, use, and/or maintenance of any computer system connected to the Internet or World Wide Web for which it allows any person to access, display, and/or prints obscene material or for which it allows minors to access, displays, and/or print sexual material harmful to minors.

2. On the Second Cause of Action, plaintiff prays for an injunction against the City of Livermore preventing it or its agents, servants, and employees from maintaining any computer system on which it allows people to access, acquire, display, and/or print obscene material or on which it

allows minors to access, acquire, display, and/or print sexual material harmful to minors. Plaintiff further prays for declaratory relief stating that the City of Livermore is legally liable for all future damage to plaintiff's children caused by the children accessing, acquiring, displaying, and/or printing sexual and other material harmful to minors on any library computer connected to the Internet or World Wide Web.

3. On the Third Cause of Action, plaintiff prays for an injunction against the City of Livermore preventing it or its agents, servants, and employees from maintaining library premises at which children have the ability to access, acquire, display, and/or print sexual and other material harmful to minors. Plaintiff further prays for declaratory relief stating that the City of Livermore is legally liable for all future damage to plaintiff's children caused by the children accessing, acquiring, displaying, and/or printing sexual and other material harmful to minors on any library computer connected to the Internet or World Wide Web.

4. On all causes of action, attorneys fees and costs.

5. For such other and further relief as the court deems just and proper.

Dated: May 28, 1998.

Office of MICHAEL MILLEN  
ATTORNEY AT LAW

By: \_\_\_\_\_  
MICHAEL MILLEN  
Attorney for Plaintiff