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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

NO.V-015266-4

Plaintiff,

**FIRST AMENDEND  
COMPLAINT  
FOR INJUNCTIVE RELIEF**

vs.

CITY OF LIVERMORE and DOES 1 TO 10

Defendants.

Plaintiffs Kathleen R., an individual, Kathleen R., in her capacity as a taxpayer, Kathleen R., petitioner for guardian ad litem for Brandon P., a minor, and Brandon P., hereby submit this FIRST AMENDEND COMPLAINT FOR INJUNCTIVE RELIEF.

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Plaintiffs hereby incorporate allegations 1 through 37 of the COMPLAINT FOR INJUNCTIVE RELIEF filed on May 28, 1998, as if fully set forth herein.

Plaintiffs hereby incorporate all the Exhibits to the COMPLAINT FOR INJUNCTIVE RELIEF filed on May 28, 1998, as if fully set forth herein.

In addition, plaintiffs allege:

*Fourth Cause of Action*

(Violation of Substantive Due Process Clause / 42 U.S.C. §1983)

1. Paragraphs 1 to 15 of the hereby incorporated as if fully set forth herein.

2. On information and belief, plaintiff alleges that public schools in the area expect children to go to the library to complete assignments and that the library knows this.
3. Upon information and belief, plaintiff alleges that the library advertises itself as a place where children are welcome and that the library puts on special programs to entertain and educate children. Upon information and belief, plaintiff further alleges that the library invites, encourages, and entices children to come to the library and use the resources at the library, including the computers.
4. Parents in the community generally do not know that the library allows children to view obscene and pornographic material on library computers and believe that the library is a "safe" place where children will not be harmed by library resources.
5. The City of Livermore intends for parents to remain ignorant about the significant harm which children can and have experienced by using library computers. Although the library generates many flyers, pamphlets, and documents concerning its operations and offerings, the library has never publicly stated that it has the policy of allowing minors to view obscenity and pornography on its computers and to download the same onto floppy disks. In this way the library is misusing its traditional reputation as a safe-haven for children.
6. The City of Livermore through the library continues to allow minors to view obscene and pornographic materials.
7. The City of Livermore knows that its actions place children at grave risk of harm. This is proven in part by the fact that that the library has stated in its Access to Electronic Information, Services and Networks Policy (found at Exhibit B, p. 2 of the complaint) that "Library patrons use the Internet at their own risk."
8. Children such as Brandon P. who view obscenity and pornography on the library's computers can and have sustained emotional and psychological damage in addition to damage to their nervous systems. It is highly likely that such damage will occur given the library's policy.
9. The actions and policy of the City of Livermore shock the conscience and, at a bare minimum, display a deliberate indifference to the health and welfare of children such as Brandon P. who are invited into the library premises by the library.
10. The actions and policy of the City of Livermore violate and have violated Brandon P.'s Fifth Amendment rights as applied to the States through the Fourteenth Amendment to the U.S. Constitution.
11. The actions and policy of the City of Livermore violate and have violated Brandon P.'s rights to substantive due process as set forth in the U.S. Constitution and the teachings of cases such as County of Sacramento v. Lewis (1998) \_\_\_ U.S. \_\_\_, 118 S.Ct. 1708, 140 L.Ed.2d 1043.
12. These violations of constitutional law along with the City's other violations of federal and constitutional law have injured Brandon P. and give him a cause of action under 42 U.S.C. §1983.
13. Brandon P. is entitled to an injunction prohibiting the City of Livermore and its library from knowingly and intentionally allowing its computers to display obscene and pornographic images where he and other children can view them.

PRAYER: Plaintiffs hereby incorporate the entire prayer to the COMPLAINT FOR INJUNCTIVE RELIEF filed on May 28, 1998, as if fully set forth herein.

Wherefore, on the fourth cause plaintiffs prays in part for relief in the form of 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 obscene, sexual, and/or other material harmful to Brandon P. and other minors.

Dated: November 3, 1998

Office of Michael Millen  
Attorney at Law

By: \_\_\_\_\_  
Michael Millen  
Attorney for Plaintiffs