

U.S. COURT OF APPEALS - EIGHTH CIRCUIT
APPELLANT'S FORM A
Appeal Information Form
To Be Filed With The Notice Of Appeal

Appeal Docket No. _____

STYLE OF CASE:

Entertainment Software Association and
Entertainment Merchants Association,

Appellees,

vs.

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LIST ISSUES ON APPEAL (For administrative purposes). You may indicate that this also serves as your statement of issues under FRAP 10(b)(3). ☒ Yes. ☐ No.

1. Are video games a protected form of speech under the First Amendment, or unprotected entertainment like other games that do not enjoy First Amendment protection?

2. Are patently offensive violent video games, which have the effect of debasing and brutalizing human beings, unprotected obscene speech as to minors?
3. Did the District Court err in deciding that the State may not restrict the purchase or rental of violent video games by minors absent scientifically certain proof that violent video games cause harm to minors and in rejecting the substantial empirical evidence the State submitted from which harm to minors' psychological well-being and moral and ethical development can reasonably be inferred?
4. Did the District Court err in holding that the Minnesota Restricted Video Game Act ("the Act") is not narrowly tailored to serve the State's compelling interests in protecting minors from harm?
5. Did the District Court err in holding that the Act's adoption of the Entertainment Software Rating Board's ("ESRB") rating system is an unconstitutional delegation of legislative authority where the ESRB operates pursuant to clear and ascertainable standards?

For LEAD COUNSEL ONLY

I ☒ have (☐ have not) discussed settlement possibilities on appeal with my client.
This appeal ☐ is (☒ not) amenable to settlement.

Submitted by:


Signature of Lead Counsel August 29, 2006

INSTRUCTIONS:

Filing of appellant's Form A is required to be submitted to the Clerk of the District Court with the Notice of Appeal (8 Cir. Rule 3 B). If inadvertently omitted, appellant may file Form A directly with the Clerk of the Court of Appeals before appeal is docketed. Forms are available at the District Court Clerk's Office and may be obtained electronically at:

www.ca8uscourts.gov

- Copy 1 - Send to Appellee (together with an uncompleted Form B)
- Copy 2 & 3 - Send to Clerk, District Court with Notice of Appeal or Eighth Circuit (see above)
- Copy 4 - Retain

☒ I verify that the original of this pleading has been signed and that I will maintain the pleading in accordance with 8th Cir.R. 25(A)(a).

AG: #1657433-v1