

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

CASE NO.: _____

07-80238

CIV. - DIMITROULEAS

TAKE-TWO INTERACTIVE SOFTWARE, INC.

a Delaware corporation
575 Broadway, 6th Floor
New York, NY 10012

Plaintiff,

v.

JOHN B. THOMPSON

1172 South Dixie Highway
Coral Gables, Florida 33146

**MAGISTRATE JUDGE
SELTZER**

FILED BY _____ D.C.
2007 MAR 13 PM 3:22
CLERK OF DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

COMPLAINT

Plaintiff Take-Two Interactive Software, Inc. ("Take-Two"), by and through its undersigned attorneys, avers and alleges as follows:

THE PARTIES

1. Plaintiff Take-Two Interactive Software, Inc., is a Delaware corporation having its principal place of business in New York, New York..
2. Defendant John B. Thompson is a citizen of the State of Florida residing at 1172 South Dixie Highway in Coral Gables, Florida.

THE NATURE OF THE ACTION

3. Plaintiff, through its wholly-owned subsidiaries including Rockstar Games, Inc., and 2K Games, is the creator, designer, developer, publishers, distributor, and seller of videogames that are sold to the public. Plaintiff intends to release two videogames, Manhunt 2 and Grand Theft Auto IV ("GTAIV") in the summer and October of 2007, respectively.

Plaintiff anticipates that, based upon the ratings of the prior versions of these titles, both games may be rated by the Entertainment Software Ratings Board as “M” for “Mature,” and recommended for sale only to individuals aged 17 and older.

4. Plaintiff brings this action pursuant to 42 U.S.C. § 1983 seeking declaratory and injunctive relief against Defendant John B. Thompson, to enjoin him from bringing suit on behalf of the State of Florida to enjoin the sale of GTAIV or Manhunt 2 as a nuisance under Fla. Stat. §§ 823.05 and 60.05 – 60.06.

5. Florida law provides for the abatement of a nuisance under FLA. STAT. §823.05. In turn, FLA. STAT. § 60.05 permits any citizen of a county where the nuisance is alleged to exist to bring suit not in their individual capacity but as a private attorney general on behalf of the State of Florida to enjoin the nuisance.

6. Application of these statutes to enjoin the sale of GTAIV and Manhunt 2 based solely upon their purportedly “violent” content violates the First Amendment and other provisions of the United States Constitution. Such proceeding would directly restrict the dissemination and receipt of fully protected expression. Further, because of the vague terms of the nuisance statutes, application of those laws to GTAIV and Manhunt 2 also creates a chilling effect as videogame creators, designers, developers, publishers, and distributors will respond to the uncertainty of the law by self-censoring, depriving the public of access to undeniably protected expression.

7. The relief to be sought by Thompson as a private attorney general is essentially identical to that sought by other laws – specifically adopted to address the sale and distribution of “violent” videogames – that have been struck down as unconstitutional by

numerous courts. Am. Amusement Mach. Ass'n v. Kendrick, 244 F.3d 575 (7th Cir. 2001); Entertainment Software Ass'n v. Blagojevich, 404 F. Supp.2d 1051 (N.D. Ill. 2005); Entertainment Software Association v. Granholm, 426 F. Supp.2d 646 (E.D. Mich. 2005); Video Software Dealers Assoc. v. Maleng, 325 F. Supp. 2d 1180 (D. Wash. 2004); Interactive Digital Software Assoc. v. St. Louis County, Missouri, 329 F.3d 954 (8th Cir. 2003) Video Software Dealers Ass'n v. Schwarzenegger, 401 F. Supp.2d 1034 (N.D. Cal. 2005); Entertainment Software Ass'n v. Hatch, 443 F. Supp.2d 1065 (D. Minn. 2006). In fact, last year a Louisiana statute – drafted with the assistance and guidance of Thompson himself – was struck down by the United States District Court for the Middle District of Louisiana. See Entertainment Software Ass'n v. Foti, 451 F. Supp. 2d 823 (M.D. 2006). See also James v. MeowMedia, Inc., 300 F.3d 683 (6th Cir. 2002) (stating that First Amendment applies to videogames and rejecting attempt to impose tort liability on “violent” content); Wilson v. Midway Games, Inc., 198 F. Supp. 2d 167 (D. Conn. 2002) (same); Sanders v. Acclaim Entm't, Inc., 188 F. Supp. 2d 1264 (D. Colo. 2002) (same).

8. Application of the Florida nuisance statutes to Plaintiff's activities as a creator, designer, developer, publishers, distributor, and seller of videogames will violate the free speech rights of Plaintiff not only through direct restriction but also as a result of the inevitable chilling effect caused by the very threat of suit.

9. Moreover, declaratory relief is especially necessary here because Thompson has a history of making multiple threats of legal action, whether substantiated or not, both against Plaintiff as well as the retailers who purchase the videogames and offer them for sale to the public. Thompson has made such threats again in connection with Manhunt 2 and

GTAIV against Plaintiff, its subsidiary Rockstar Games, Inc., and their business partners. Thompson's threats have, on occasion, resulted in a suit at unpredictable times and under unpredictable circumstances, against not only Take-Two but also the retailers who purchase the games for sale to the public. On occasion, Thompson has even brought suit on behalf of the State of Florida, dismissed it, filed again, sought a temporary restraining order, and then failed to pursue that motion. It is precisely these types of uncertain circumstances that declaratory relief under 42 U.S.C. § 1983 was intended to address.

10. Plaintiff maintains that application of the statutes to videogames is unconstitutional under the First and Fourteenth Amendments to the Constitution of the United States and thus actionable under 42 U.S.C. § 1983, and that Plaintiff will suffer immediate, serious and irreparable injury if the statutes are applied to Plaintiff's videogames.

JURISDICTION AND VENUE

11. This action arises under the Constitution of the United States, the First and Fourteenth Amendments thereto, and the laws of the United States, 42 U.S.C. §§ 1983 and 1988, and 28 U.S.C. §§ 2201 and 2202. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1343(a)(3).

12. This Court also has jurisdiction over this action pursuant to 28 U.S.C. § 1332 in that it is between citizens of different States and/or aliens and the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

13. Venue is proper in this district in that Defendant Thompson resides in this judicial district.

BACKGROUND

14. Under the First Amendment to the United States Constitution, “Congress shall make no law ... abridging the freedom of speech,” U.S. Const. amend. I. Under the Fourteenth Amendment, the prohibitions of the Free Speech Clause apply equally to the State of Florida and anyone who seeks to act on its behalf. U.S. Const. amend. XIV.

15. In acting as a private attorney general on behalf of the State of Florida, Thompson seeks to regulate the expressive medium of videogames and limit access to certain videogames based solely on the content of the expression depicted or contained therein.

16. The videogames created, designed, developed, publishers, distributed, and sold by Plaintiff are a form of artistic expression, with extensive storylines and developed characters. Videogames explore the same themes and plots as other forms of literature, such as good versus evil, the corruption of governmental authorities, or the life of criminals.

17. Videogames also contain extensive visual, graphic, animated and computer-generated artwork, as well as original music scores and songs.

18. Accordingly, videogames – likely any other form of verbal, written or visual expression – are shielded by the protections of the First Amendment. Further, the First Amendment also protects videogame depictions of violent conduct.

19. Section 823.05 of the Florida Statutes provides:

Whoever shall erect, establish, continue, or maintain, own or lease any building, booth, tent or place which tends to annoy the community or injure the health of the community, or become manifestly injurious to the morals or manners of the people ... or any house or place of prostitution, assignation, lewdness or place or building where games of chance are engaged in violation of law or any place where any law of

the state is violated, shall be deemed guilty of maintaining a nuisance, and the building, erection, place, tent or booth and the furniture, fixtures and contents are declared a nuisance. All such places or persons shall be abated or enjoined as provided in §§ 60.05 and 60.06.

20. Section 60.05 in turn provides in part as follows:

When any nuisance as defined in § 823.05 exists, the Attorney General, state attorney, city attorney, county attorney, or any citizen of the county may sue in the name of the state on his or her relation to enjoin the nuisance, the person or persons maintaining it, and the owner or agent of the building or ground on which the nuisance exists.

FLA. STAT. § 60.05(1). The law permits the issuance of temporary and permanent injunctive relief. Id. at §§ 60.05(2) and 60.06.

21. Further, the Florida nuisance statutes provide any nuisances that “tend to annoy the community, injure the health of the citizens in general, or corrupt the public morals are misdemeanors of the second degree, punishable as provided in § 775.083, except that a violation of §823.10 is a felony of the third degree.” Id. at § 823.01.

22. Defendant Thompson, acting on behalf of the State of Florida rather than his individual capacity, has previously invoked these statutes to seek to enjoin the distribution, within the State of Florida, of videogames that he deems “too violent.” More specifically, in the summer of 2005 and the fall of 2006, Thompson brought two suits in the Circuit Court of the Eleventh Judicial Circuit In and For Miami-Dade County, Florida in a matter captioned as John B. Thompson, on behalf of the State of Florida v. Wal-Mart Stores, Inc., Take-Two Interactive Software, Inc., and GameStop, Inc., Civ. A. No. 06-16311 to enjoin the sale of a T-rated videogame, Bully.

23. In that matter, Thompson first initiated suit against Take-Two as well as the retailers Wal-Mart, Target, GameStop, Circuit City, Toys “R Us and Best Buy in August

2005. He dismissed the suit without prejudice weeks later, without pursuing it to completion, then filed suit again a year later against only Take-Two, its subsidiary Rockstar Games, Inc., and Wal-Mart.

24. In the recommenced action, Thompson first sought only a pre-release copy of the Bully videogame for his own viewing, so that he and his “experts” could determine whether they believed that videogame was appropriate for public release. Thompson then sought a unconstitutional “pre-publication” review of the Bully videogame by the court, which was granted over Take-Two’s objections, and then a temporary restraining order (“TRO”), which was denied. After his request for a TRO was denied, and an interlocutory appeal was rejected, Thompson dismissed the Bully lawsuit with prejudice in exchange for Take-Two’s agreement to withdraw a motion for sanctions.

25. Thompson has threatened to bring a similar suit and seek a similar unconstitutional pre-publication review as to GTAIV and Manhunt 2. Whether or not Thompson ever files such a suit, the very threat of it and the possibility of unconstitutional pre-publication review presents a chilling effect on Plaintiff’s First Amendment rights, as well as a disruption in its relationships with the retailers who may be joined as additional defendants in any enforcement action instituted by Thompson on behalf of the State of Florida.

26. The actual filing of any such suit, or request for an unconstitutional pre-publication review would deprive Take-Two of its rights under the First Amendment to the United States Constitution and again disrupt its relationships with the retailers who may be joined as additional party defendants.

Application of the Statutes to Plaintiff's Videogames Violates the First Amendment

27. By invoking the statutes to restrict the sale of videogames containing “violent” content, Thompson seeks to impose penalties based upon the content of the games’ protected expression. Thus, any such application is subject to the strictest scrutiny under the First Amendment.

28. No compelling state interest exists that justifies the broad suppression of speech that would be imposed by application of the nuisance statutes to videogames.

29. Thompson argues that there is a purported State interest in protecting minors from the “nuisance” presented by videogames, *i.e.*, that the use of “violent” videogames causes undefined “harm” to minors. But Thompson cannot seek, on behalf of the State of Florida, to suppress expression based on the theory that it will cause individuals to act violently unless Thompson can demonstrate that the expression is intended and is likely to cause imminent violent conduct.

30. The Florida nuisance statutes contain no such legislative findings and refer to no supporting evidence of any such contention – understandably so, since the nuisance statutes were never drafted nor intended to address expressive content. Further, no such showing could be made, as found by every court to consider the issue.

31. Additionally, other than the narrow exceptions not applicable here, the State may not restrict expressive conduct based upon the theory that it has a negative effect on adults’ or minors’ thinking, personalities or beliefs.

32. Even if there were a legitimate state interest in abridging the First Amendment rights of Plaintiff or the public, application of the nuisance statutes to videogames is not the least restrictive means of achieving any such goal.

33. Application of the nuisance statutes presents Plaintiff with the certainty of arbitrary and discriminatory enforcement because the statutes lack even minimal standards for enforcement. There are no specific standards for determining whether GTAIV, Manhunt 2, or any other videogame would constitute a “nuisance” under Florida law.

34. Further, the statutes fail to give any reasonable notice of what conduct would be prohibited by the publishers, manufacturers, distributors or sellers of expressive conduct. The term “nuisance” has no clear meaning in the context of videogames, which offer the players a wide variety of choices throughout the long duration of game play.

35. The burdens imposed by applying the nuisance statutes will cause a chilling of speech of by Plaintiff, and the institution of any suit or a pre-publication review of the videogames would deprive Plaintiff of its First Amendment rights.

36. Application of the nuisance statutes to GTAIV and Manhunt 2 – or indeed any videogame – also would infringe the First Amendment rights of Plaintiff’s customers.

37. In the event Plaintiff prevail on any claims under the Constitution of the United States set forth in this Complaint, Plaintiff is entitled to recover attorneys’ fees under 42 U.S.C. § 1988.

COUNT I
(First and Fourteenth Amendments – Freedom of Expression)

38. Plaintiff incorporates ¶¶ 1- 37 as if fully set forth herein.

39. Any suit by Thompson on behalf of the State of Florida would seek to restrict access to, and gain an invalid pre-publication review of, videogames based solely upon the content of the creative expression depicted therein. The content of these games does not fall within any other category of expression that may be constitutionally regulated based solely on content.

40. Such suppression of videogames under the nuisance statutes is unsupported by any legislative finding, or underlying evidence, that exposure to such expression is intended and likely to cause imminent violent action by players. Moreover, application of the statutes' stated purpose of preventing "nuisances" to videogames is not based on credible evidence nor sufficient to justify the broad content discrimination against videogames sought by Thompson on behalf of the State of Florida.

41. Thus, application of the statutes to Plaintiffs' videogames fails to serve a compelling government interest, nor is it narrowly tailored to serve any such interest.

42. The statutes provide no standards for determining which videogames would constitute a "nuisance." Application of the nuisance statutes to GTAIV and Manhunt 2 – or indeed any videogame – would impose upon Plaintiff the burden of determining whether the content constitutes a "nuisance" prior to selling or otherwise distributing it to the public, or risk criminal penalties. This risk is aggravated by the vagueness of the statute, and the possibility of an invalid pre-publication review by state courts on a county-by-county basis.

43. This would establish an unconstitutional scheme of censorship under which even works of expression that are not a "nuisance" would be suppressed because of the

burden placed on Plaintiff to determine the scope of the term “nuisance” and because of the risk of errors in that determination.

44. Further, retailers who purchase the videogames from Plaintiff would be induced to refuse to include GTAIV, Manhunt 2, or other videogames, for fear of being prosecuted for maintaining a “nuisance.”

45. Again, there is no compelling interest for such burdens, and the statutes are not narrowly tailored to serve any such interest in suppressing expressive content.

46. For each of the reasons set forth above, and others, application of the Florida nuisance statutes to GTAIV or Manhunt 2 is unconstitutional under the First Amendment to the United States Constitution, as applied to the State of Florida by the Due Process Clause of the Fourteenth Amendment to the United States Constitution. Any such action, including but not limited to the institution of any suit or a request for pre-publication review, would cause Plaintiff to be deprived of the rights, privileges and immunities secured to them by the Constitution and the laws of the United States. Any such action would thus constitute a deprivation of rights actionable under 42 U.S.C. § 1983.

COUNT II

(First and Fourteenth Amendments – Vagueness)

47. Plaintiff incorporates ¶¶ 1- 37 as if fully set forth herein.

48. The nuisance statutes as applied to GTAIV and Manhunt 2 is unconstitutionally vague because it fails to give reasonable notice of what conduct is prohibited. The vague terms include, but are not limited to: “annoy the community,” “injure the health of the community,” “manifestly injurious to the morals or manners of the

people,” and “nuisance.” These terms have no clear meaning in the context of videogames, and persons of ordinary intelligence are forced to guess at the meaning and scope of the statutes as applied to videogames.

49. This unconstitutional vagueness will have a chilling effect on Plaintiff as well as Plaintiff's customers. Application of the statutes to GTAIV and Manhunt 2 will impose substantial burdens upon Plaintiff and its customers, preventing them from exercising their constitutionally protected freedom of expression. The statutes' vagueness as to videogames is also likely to lead to enforcement, on a county-by-county basis, on an unfair, subjective and *ad hoc* basis. Because of the utter lack of clear, defined terms, application of the statutes will restrict a far broader range of videogames than GTAIV and Manhunt 2 because Plaintiff's distributors likely will respond to the uncertainty and fear of penalties by withholding Plaintiff's videogames from the public. As a result, Plaintiff's protected expression will not reach willing recipients.

50. For each of the reasons set forth above, and others, application of the Florida nuisance statutes is unconstitutional under the Due Process Clause of the Fourteenth Amendment to the United States Constitution, as well as the First Amendment to the United States Constitution, as applied to the State of Florida by the Due Process Clause of the Fourteenth Amendment. Any such action, including but not limited to the institution of any suit or a request for pre-publication review, would cause Plaintiff to be deprived of the rights, privileges and immunities secured to them by the Constitution and the laws of the United States. Any such action would thus constitute a deprivation of rights actionable under 42 U.S.C. § 1983.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Take-Two Interactive Software, Inc., demands that this Court enter a judgment in Plaintiff's favor and against Defendant John B. Thompson as follows:

- (a) That this Court issue a declaratory judgment that any attempt to apply the Florida nuisance statutes to Grand Theft Auto IV and Manhunt 2, or to any other videogames, is of no force and effect;
- (b) That this Court issue an injunction against Defendant John B. Thompson enjoining him from bringing suit individually or on behalf of the State of Florida to enjoin the distribution of, or seek a pre-publication review of, Grand Theft Auto IV and Manhunt 2 to any persons in the State of Florida;
- (c) That Plaintiff be awarded its attorneys' fees under 42 U.S.C. § 1988;
- (d) That Plaintiff be awarded its costs herein; and
- (e) That this Court order such other general and equitable relief as it deems fit and proper.

BLANK ROME LLP

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By: 

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The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.) **NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.**

I. (a) PLAINTIFFS

TAKE-TWO INTERACTIVE SOFTWARE, INC. a Delaware Corporation

(b) County of Residence of First Listed Plaintiff New York, New York
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Howard M. Camerik, Esq., Blank Rome LLP
1200 North Federal Highway, Suite 417
Boca Raton, FL 33432 -- Tel: 561-417-8100

DEFENDANTS

JOHN B. THOMPSON

County of Residence of First Listed Defendant Miami-Dade
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT LAND INVOLVED.

07-80238

(d) Check County Where Action Arose: ☐ MIAMI-DADE ☐ MONROE ☐ BROWARD ☒ PALM BEACH ☐ MARTIN ☐ ST. LUCIE ☐ INDIAN RIVER ☐ OKEECHOBEE ☐ HIGHLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

07CV80238 WPD/BSS

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | PTF | DEF |
|---|--------------------------|--------------------------|--------------------------|--------------------------|
| Citizen of This State | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Citizen of Another State | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS		
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Re-filed (see VI below) ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. RELATED/RE-FILED CASE(S).

a) Re-filed Case ☐ YES ☐ NO b) Related Cases ☐ YES ☐ NO

(See instructions second page):

JUDGE

DOCKET NUMBER

VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity):

Case arises out of 42 U.S.C. 1983 and the First and Fourteenth Amendments to the Constitution -- seeks a declaratory judgment that Defendant may not use Florida's nuisance statute to gain judicial review and injunction against release of video games.

LENGTH OF TRIAL via 3 days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

SIGNATURE OF ATTORNEY OF RECORD

DATE

HOWARD M. CAMERIK

FOR OFFICE USE ONLY

AMOUNT

RECEIPT #

IFP

7222537

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3-13-07