

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

BACKPAGE.COM, LLC,

Plaintiff,

v.

JOHN JAY HOFFMAN, Acting Attorney
General of the State of New Jersey, *et al.*;

Defendants, in their official
capacities.

THE INTERNET ARCHIVE,

Plaintiff-Intervenor,

v.

JOHN JAY HOFFMAN, Acting Attorney
General of the State of New Jersey, *et al.*;

Defendants, in their official
capacities.

**CIVIL ACTION NO. 2:13-03952
(CCC-JBC)**

(CONSOLIDATED ACTIONS)

**STIPULATION AND
[PROPOSED] ORDER FOR
ENTRY OF FINAL
JUDGMENT ENJOINING
ENFORCEMENT OF N.J.S.A.
§ 2C:13-10(b)(1)**

STIPULATION

The undersigned parties, by and through their counsel of record, have agreed to a settlement and hereby stipulate to the dismissal of these consolidated actions with prejudice and, as conditions thereof, agree that the Court will enter final judgment in these actions permanently enjoining any enforcement or prosecution of any person under N.J.S.A. § 2C:13-10(b)(1) and declaring that the statute is unconstitutional and violates federal law.

ORDER

Based on the foregoing Stipulation and the Court's prior orders, findings and conclusions in these actions, it is hereby ORDERED, ADJUDGED and DECREED that:

1. Plaintiffs have standing to pursue the claims in these actions pursuant to 42 U.S.C. § 1983 and the Declaratory Judgment Act, 28 U.S.C. § 2201.

2. The Court declares that N.J.S.A. § 2C:13-10(b)(1):

- a. Violates and is preempted by section 230 of the Communications Decency Act, 47 U.S.C. § 230;
- b. Violates the First and Fourteenth Amendments to the United States Constitution because it lacks an appropriate element of scienter to avoid chilling protected speech;
- c. Violates the First and Fourteenth Amendments because the law is unconstitutionally vague;
- d. Violates the First and Fourteenth Amendments because the law is overbroad and not narrowly tailored to the State's asserted governmental interests; and
- e. Violates the dormant Commerce Clause, U.S. Const., Art. 1, § 8.

3. Because N.J.S.A. § 2C:13-10(b)(1) will result in the loss or derogation of First Amendment and other constitutional and federal statutory rights; because irreparable harm would result to online service providers and to the public generally if the statute were allowed to take effect; because the balance of equities favors granting permanent injunctive relief; and because an injunction is in the public interest; the Court therefore enters a PERMANENT INJUNCTION as follows:

- a. Defendants and all other persons are permanently enjoined from enforcement of N.J.S.A. § 2C:13-10(b)(1) in any way, including, but not limited to taking any action to enforce the statute in any way or pursuing prosecution of any person under the statute in any way;
- b. This permanent injunction shall take effect as of the date of this Order; and

- c. The Clerk of Court is directed to enter a final judgment in accordance with this Order, terminating these actions, with prejudice.
- d. This Order and the final judgment of this Court do not preclude enforcement of N.J.S.A. § 2C:13-10(b)(2) solely against persons who knowingly purchase advertising in New Jersey for a commercial sex act which includes the depiction of a minor.

SO ORDERED this _____ day of May ____, 2014.

CLAIRE C. CECCHI
UNITED STATES DISTRICT JUDGE

Consent to form and entry of this Order:

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Attorney for Defendants

By: s/ Stuart M. Feinblatt
Stuart M. Feinblatt
Assistant Attorney General

Dated: May 14, 2014

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By: s/ Frank L. Corrado, Esq.
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Dated: May 14, 2014

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Dated: May 14, 2014