IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

AMERICAN LIBRARY ASSOCIATION, et al., Plaintiffs v. UNITED STATES OF AMERICA, et al., Defendants	)	Civil Action No. 01-CV-1303
MULTNOMAH COUNTY PUBLIC LIBRARY, et al., Plaintiffs v. UNITED STATES OF AMERICA, et al., Defendants	)	Civil Action No. 01-CV-1322

PLAINTIFFS' JOINT PRETRIAL BRIEF

Plaintiffs file this short brief to summarize the case they will present and the applicable law.

I. INTRODUCTION

Plaintiffs challenge the constitutionality of the Children's Internet Protection Act (CIPA), a federal law that will prevent adults and minors at libraries nation-wide from accessing protected speech on the Internet. § 1712, § 1721(b) (codified at 20 U.S.C. § 9134 and 47 U.S.C. § 254(h)). CIPA requires that all public libraries participating in certain federal programs install and enforce "technology protection measures" that protect against access to material that is obscene, child pornography, and, on computers used by minors, harmful to minors.

II. STIPULATIONS

The parties are submitting stipulations in the following areas: the identity of the plaintiffs, the two federal funding programs at issue, the nature of the Internet, the Internet in libraries, and available technology protection measures.

III. WITNESSES

As discussed more fully below, plaintiffs will put on the following witnesses at trial: 1) four librarian fact witnesses; 2) three experts on the features and flaws of blocking programs, the only technology protection measures currently available for compliance with CIPA; 3) four experts in librarianship; 4) two library patrons who access the Internet at their libraries; 5) one Web publisher whose speech is blocked by blocking programs. Counsel for the Multnomah and ALA plaintiffs have worked closely together to avoid duplicative testimony. The testimony of these witnesses will establish that, if upheld, CIPA will prevent library patrons from receiving a substantial amount of protected speech published on the Internet. In doing so, CIPA imposes an unconstitutional condition on participants in the e-rate and LSTA programs, and distorts the usual function of public libraries, which is to provide patrons with the broadest possible array of protected speech.

MONDAY, MARCH 25, 2002

1. CANDACE MORGAN (ALA)

   Candace Morgan is an Associate Director of the Fort Vancouver Regional Library in Fort Vancouver, Washington. She is also the former president of the Freedom to Read Foundation. Ms. Morgan will testify about the library use policies at her library. She will testify about the public hearings held in her community to develop the current Internet Use Policy at Fort Vancouver Regional Library, which allows each patron to choose either filtered access, unfiltered access or no Internet access for that individual patron or

the patron's child. She will testify about the use of privacy screens and educational training at her library.

Estimated time of direct examination: 45 minutes.

2. GINNIE COOPER (Multnomah)

Ginnie Cooper is Director of the plaintiff Multnomah County Public Library, in Portland, OR, a library system serving 500,000 card-carrying patrons through its Central Library and 17 branches. Ms. Cooper will testify about CIPA's effect on her library and others, the mission of public libraries, and the ways in which librarians help patrons of all ages find the material they want and avoid unwanted content.

Estimated time of direct examination: 1 hour.

3. SALLY GARDNER REED (ALA)

Sally Gardner Reed is the Executive Director of Friends of the Library USA. Until January, 2002, she was the Director of the Norfolk Public Library in Norfolk, Virginia. She is a past Board Member of the American Library Association. She will testify about the purpose and function of libraries, including collection development, access to materials, and inter-library loan. She will testify about the Internet Use Policy at Norfolk, Virginia, which allows unfiltered access to the Internet. She will testify about less restrictive alternatives to filtered Internet access as compiled in the American Library Association Internet Tool Kit.

Estimated time of direct examination: 45 minutes.

4. PETER HAMON (Multnomah)

Peter Hamon is Director of the plaintiff South Central Library System (SCLS) in Madison, WI, a consortium of 50 independent libraries serving a predominantly rural and agricultural region in central and southern Wisconsin. Mr. Hamon will testify about the mission of SCLS, CIPA's effect on SCLS and its member libraries, and the problems posed by requiring library patrons to request permission under CIPA to access blocked sites for "bona fide research."

Estimated time of direct examination: 45 minutes.

TUESDAY, MARCH 26, 2002

1. DR. GEOFFREY NUNBERG (ALA)

   Expert witness Dr. Geoffrey Nunberg is a Researcher and Professor in the Department of Linguistics at Stanford University. He was formerly a Principal Scientist for Xerox PARC. He received his B.A. from Columbia University, a Masters in Linguistics from University of Pennsylvania and PhD in Linguistics from CUNY. Dr. Nunberg is an expert on automated classification systems, of which blocking software programs are a particular type. Dr. Nunberg will testify about the inherent methodological flaws and technical limitations of blocking software that make the use of such software in the context of the public library infeasible because of the systematic overblocking and underblocking by these products.

   Estimated time of direct examination: 2 hours.

2. DR. JOSEPH JANES (Multnomah)

   Expert witness Dr. Joseph Janes is an Assistant Professor at The Information School of the University of Washington in Seattle, WA. Dr. Janes will testify that he and his staff reviewed a statistical sample of all web pages found to be blocked by expert Benjamin Edelman (see below) in order to determine which pages had value in a library context. He will further testify that his findings establishing with 95% statistical certainty that 65 to 70.6% of the web pages documented by Mr. Edelman are wrongly blocked.

   Estimated time of direct examination: 1 hour.

3. EMMALYN ROOD (Multnomah)

   Plaintiff Emmalyn Rood of Portland, OR, is a sixteen-year-old library patron. She will testify regarding her reliance on the public library for Internet access, the controversial and sensitive nature of her research, and her unwillingness to request unblocking of sites.

   Estimated time of direct examination: 30 minutes.

4. MARK BROWN (Multnomah)

Plaintiff Mark Brown is a patron of the Philadelphia Free Library. He will testify about his use of the Internet at the library, the controversial and sensitive nature of some of his research, and his unwillingness to request unblocking of sites.

Estimated time of direct examination: 30 minutes.

WEDNESDAY, MARCH 27, 2002

1. CHRISTOPHER HUNTER (ALA)

Expert witness Christopher Hunter is a doctoral candidate at the Annenberg School for Communication of the University of Pennsylvania. Mr. Hunter tested the effectiveness of four popular blocking software programs to determine the extent to which they blocked unobjectionable material on the Internet and failed to block objectionable material. Mr. Hunter also reviewed and analyzed more than 40 other studies of blocking software. Mr. Hunter will testify based on his own research and his review of other studies that all blocking software programs systematically underblock and overblock.

Estimated time of direct examination: 1 hour.

2. DR. JONATHAN BERTMAN (Multnomah)

Dr. Jonathan Bertman is the President and Medical Director of plaintiff Afraid to Ask.com, Inc. of Saunderstown, RI. That company publishes an educational Web site, www.afraidtoask.com, offering information on highly sensitive, personal, or controversial medical topics about which people are often "afraid to ask." Dr. Bertman will testify that his site is currently blocked by several programs and will describe his reasonable fear that it will continue to be blocked. He will also testify about the stigma that will prevent those readers from requesting that a librarian unblock the site, especially if required to disclose either their identity or their purpose in accessing the site.

Estimated time of direct examination: 30 minutes.

3. DR. MICHAEL RYAN (Multnomah)

Expert witness Dr. Michael Ryan is Director of the Annenberg Rare Book and Manuscript Library at the University of Pennsylvania in Philadelphia, PA. Dr. Ryan will testify that he reviewed certain web sites found to be blocked by Mr. Edelman and determined that they contain content of use or interest in a public library.

Estimated time of direct examination: 30 minutes.

THURSDAY, MARCH 28, 2002

The defendants will offer testimony.

FRIDAY, MARCH 29, 2002

The defendants will offer testimony.

MONDAY, APRIL 1, 2002

The defendants will offer testimony.

TUESDAY, APRIL 2, 2002

1. BENJAMIN EDELMAN (Multnomah)

Expert witness Benjamin Edelman is a computer expert and consultant who currently works for the Berkeman Center for Internet and Society at Harvard Law School in Cambridge, MA. Mr. Edelman will provide expert testimony about his research and documentation regarding blocking programs. His research documents 6777 sites blocked by at least one of four blocking programs. His research will show that these programs persistently block a significant portion of content on the Internet that does not meet the programs' self-defined category definitions.

Estimated time of direct examination: 2-3 hours.

2. ANNE LIPOW (Multnomah)

Expert witness Anne Lipow has been a librarian and library consultant for over 40 years; her consulting business, Library Solutions Institute and Press, is based in Berkeley, CA. She has

worked with hundreds of libraries around the United States and the world, and is an expert on using technology and the Internet to expand the resources available through libraries. Ms. Lipow will testify that she reviewed certain web sites found to be blocked by Mr. Edelman (see above), and determined that they contain content of use or interest in a public library. Ms. Lipow will also testify about how the Internet has changed reference services, and about the problems posed by CIPA's requirement that patrons request permission to access blocked sites for "bona fide research."

Estimated time of direct examination: 45 minutes.

3. MARY K. CHELTON (ALA)

Expert witness Mary K. Chelton is an Associate Professor of the Graduate School of Library and Information Studies at Queens College/ CUNY. She received a PhD in communications and a Masters in library sciences from Rutgers University, a Masters in public health from the University of Alabama, and a B.A. from Loyola College. Ms. Chelton was a public librarian for over 20 years, specializing in youth services. Ms. Chelton will testify about the purpose and function of libraries, and the use of blocking software in the context of the public library.

Estimated time of direct examination: 1 hour.

WEDNESDAY, APRIL 3, 2002

The defendants will offer testimony.

THURSDAY, APRIL 4, 2002

1. BENJAMIN EDELMAN (Multnomah)

Multnomah expert witness Benjamin Edelman will likely offer rebuttal testimony to the testimony of defendants' witnesses Cory Finnell and Christopher Lemmons.

2. SALLY GARDNER REED (ALA)

Sally Gardner Reed will likely offer rebuttal testimony to the testimony of defendants' witnesses.

IV. EXHIBITS

See attachments A and B for Multnomah and ALA plaintiffs' exhibit lists, respectively.

V. CIPA IMPOSES A PRIOR RESTRAINT ON PROTECTED SPEECH AND FAILS STRICT SCRUTINY

CIPA requires all public libraries that participate in certain federal programs to install "technology protection measures" on all Internet access terminals, including those used by adult patrons and by library staff. Because the evidence will show that the only available technology protection measures are blocking programs that block access to constitutionally protected speech, CIPA imposes a classic system of prior restraints that presumptively violates the First Amendment. Public libraries are limited public forums, bound by the same First Amendment standards as any traditional public forum. See Mainstream v. Board of Trustees of the Loudoun County Library, 24 F.Supp.2d. 552, 562 (E.D. Va. 1998) (Loudoun II). The government does not even attempt to argue that CIPA would be constitutional if imposed as a direct mandate on public libraries, and CIPA is no more constitutional simply because Congress chose to impose it indirectly on libraries that participate in certain federal programs. Rather, "any system of prior restraints of expression comes to [the court] bearing a heavy presumption against its constitutional validity." Bantam Books v. Sullivan, 372 U.S. 58, 70 (1963) (emphasis added).

CIPA requires public libraries that receive federal funding to operate technology protection measures, for use on all computers with Internet access during any use of such computers, to block access via the Internet to visual depictions that are obscene, child pornography, or harmful to minors. 47 U.S.C. § 254(h)(6)(B); 20 U.S.C. § 9134(f)(1). However, as plaintiffs' experts will testify, and as defendants' experts will concede, blocking programs do not and cannot distinguish between protected and unprotected speech, nor can they block access

to all of, or only, that speech on the Internet that Congress wants blocked. In addition, CIPA forces libraries to delegate the decision about whose speech to block to private third parties -- the producers of blocking programs -- the vast majority of which will not even reveal to the libraries what speech they are blocking. Thus, by requiring libraries to install these programs, CIPA requires them to establish a system of ongoing prior restraints against protected speech. As the Supreme Court held over fifty years ago, and has confirmed on numerous occasions, "the chief purpose of the [First Amendment] is to prevent previous restraints upon publication." Near v. Minnesota, 283 U.S. 697, 713 (1931). As the Supreme Court reminds us, "a free society prefers to punish those few who abuse the rights of speech after they break the law than to throttle them and all others beforehand." Southeastern Promotions v. Conrad, 420 U.S. 546, 559 (1975).

Testimony from plaintiffs' experts will prove that blocking programs function literally as automated censors, blocking speech in advance of any judicial determination that it is unprotected. These blocking software producers arbitrarily and irrationally block speech that is fully protected, by speakers such as plaintiffs AfraidToAsk.com (providing online medical advice about highly personal health care issues), The Alan Guttmacher Institute (providing research articles and analyses about, e.g., contraceptive use and abortion), SaferSex.org (offering an extensive collection of safe sex resources), and the Naturist Action Committee (promoting nudism and healthy body image). Plaintiffs' experts will identify many examples of such "overblocking" of protected speech, including the wrongful blocking of www.the-strippers.com (advertising wood furniture varnish removal services), www.redhotmama.com (advertising the services of a California event planner), muchlove.org (a Southern California non-profit animal rescue organization), and cancerftr.wkmc.com (Web site of the Willis-Knighton Cancer Center's

Department of Radiation Oncology), all of which were censored by blocking companies as having sexually explicit or pornographic content despite containing no such content.

As the testimony of both plaintiffs' and defendant's experts will establish, blocking programs routinely block thousands of additional Internet speakers whose speech is protected. Furthermore, the blocking programs concede that they categorize and block speech based on their own content definitions, which are much broader than the legal definitions of obscenity, child pornography or harmful-to-minors material. The decisions by blocking program vendors "to list particular publications as objectionable," however, "do not follow judicial determinations that such publications may lawfully be banned," instead relying on their own self-defined and arbitrary definitions of content, which are based on market demand rather than the rule of law. Bantam Books, 372 U.S. at 70.

CIPA's "bona fide research" provision does nothing to cure the prior restraint. It is a standardless licensing scheme that will impermissibly chill speech and impose an unconstitutional stigma on library patrons, as plaintiffs' librarian and expert witnesses will describe. CIPA merely allows, but does not require, library authorities to grant research exceptions. See 20 U.S.C. § 9134(f)(3) and 47 U.S.C. § 254(h)(6)(D) (providing that authorities "may disable the technology protection measure") (emphasis added). Additionally, under CIPA provisions applying to libraries receiving e-rate discounts, librarians are prohibited from granting exceptions to minors for any purpose, even if the speech is clearly protected for minors and even if their parents consent. 47 U.S.C. § 254(h)(6)(D). Nothing prevents a library authority from denying anyone's disabling request for any reason, or no reason at all, and thus the Act "vests unbridled discretion in a government official over whether to permit or deny expressive

activity." City of Lakewood v. Plain Dealer Publ'g Co., 486 U.S. 750, 755 (1988). Even potentially unprotected speech deserves adequate procedural safeguards. Thus, "(1) any restraint prior to judicial review can be imposed only for a specific brief period during which the status quo must be maintained; (2) expeditious judicial review of that decision must be available; and (3) the censor must bear the burden of going to court to suppress the speech and must bear the burden of proof once in court." Freedman v. State of Md., 380 US 51, 58-60 (1965). Furthermore, forcing citizens to publicly petition the government for access to speech is especially contrary to First Amendment principles, due to its severe chilling effect. See Mainstream Loudoun v. Board of Trustees of the Loudoun County Library, 2 F.Supp.2d 783, 797 (E.D.Va. 1998) (Loudoun I) (citing Lamont v. Postmaster of U.S., 381 U.S. 301, 307 (1965)).

CIPA is clearly an unconstitutional prior restraint, lacking both narrow and reasonably defined standards, and without adequate (or, in fact, any) procedural safeguards. Furthermore, CIPA fails the strict scrutiny required of content-based burdens on speech. Even if the government has a compelling interest in preventing access by minors to non-obscene but sexually explicit speech, it has no such interest in "protecting" adults. See Sable Communications of California, Inc. v. F.C.C., 492 U.S. 115, 130-1 (1989). In addition, CIPA is far from narrowly tailored. First, it prevents adults from access to protected speech in the name of protecting children. "Surely, this is to burn the house to roast the pig." Butler v. Michigan, 352 U.S. 380, 383 (1957). See also American Civil Liberties Union v. Reno, 217 F.3d. 162, 173 (3d Cir. 2000); Reno v. American Civil Liberties Union, 521 U.S. 844, 882 (1997). Moreover, there are less restrictive ways to protect children. See Loudoun II, 24 F. Supp. at 566-67.

Only one federal court has considered the constitutionality of a policy that requires all library patrons to use technology that blocks access to Internet speech. In Mainstream Loudoun v. Loudoun County, the court first denied a motion to dismiss, holding that the policy clearly implicated the First Amendment. See Loudoun I, 2 F. Supp. 2d 783. In Loudoun II, the court found that the policy did not pass the applicable strict scrutiny and was also an unconstitutional prior restraint, 24 F. Supp. 2d at 561-67, 570. CIPA seeks to force libraries across the country to engage in precisely the same unconstitutional conduct.

VI. CIPA IMPOSES AN UNCONSTITUTIONAL CONDITION ON LIBRARIES WHO PARTICIPATE IN CERTAIN FEDERAL PROGRAMS

The Supreme Court has made clear that the mere fact that a restriction on speech is part of a spending program does not insulate it from First Amendment scrutiny. The government cannot condition the receipt of federal benefits on the violation of the Constitution: "[E]ven though the government may deny [a]…benefit for any number of reasons, there are some reasons upon which the government may not rely. It may not deny a benefit to a person on a basis that infringes his constitutionally protected interests—especially, his interest in freedom of speech." Perry v. Sindermann, 408 U.S. 593, 597 (1972). The unconstitutionality of CIPA's conditions is exacerbated by the fact that it extends to restrict speech beyond that which is actually subsidized by the federal funding programs. A public library participating in the e-rate or LSTA programs must certify that blocking software operates on "any of its computers with Internet access" during "any use of such computers," 20 U.S.C. § 9134(f)(1)(B) and 47 U.S.C. § 254(h)(6)(C) (emphasis added). Thus, the law requires libraries to block speech even on computers and Internet connections wholly paid for with non-federal money. This is unconstitutional under F.C.C. v. League of Women Voters of California, in which the Court found fatal the fact that the

statute did not permit public broadcasting stations "to segregate its activities according to the source of its funding" or "to establish 'affiliate' organizations which could then use the station's facilities to editorialize with nonfederal funds." F.C.C. v. League of Women Voters of California, 468 U.S. 364, 400 (emphasis added).

When judging the constitutionality of speech restrictions on the use of federal funding, the Supreme Court has in the past drawn a distinction between situations in which the government acts as a speaker and those in which the government "does not itself speak or subsidize transmittal of a message it favors but instead expends funds to encourage a diversity of views from private speakers." Velazquez v. Legal Services Corp., 531 U.S. 533 , 542 (2001) (quoting Rosenberger v. Rector & Visitors of the Univ. of Va., 515 U.S. 819, 834 (1995)). "When the government disburses public funds . . . to convey a governmental message, it may take legitimate and appropriate steps to ensure that its message is neither garbled nor distorted by the grantee." Rosenberger, 515 U.S. at 833 (1995). But this "latitude for government speech" does not apply "to subsidies for private speech in every instance." Velazquez, 531 U.S. at 542. Instead, when a government program is "designed to facilitate private speech, not to promote a governmental message," the First Amendment applies with full force. Id.

When a government program is "designed to facilitate private speech" or to "encourage a diversity of views," the government is not free to restrict speech based on its content or viewpoint. Id.; see also League of Women Voters, 468 U.S. at 383, 392, 395; see also, e.g., Brooklyn Institute of Arts & Sciences v. City of New York, 64 F. Supp. 2d 184 (E.D.N.Y. 1999). For this reason, the Court in Velazquez struck down a law that prohibited attorneys funded with federal money through the Legal Services Corporation from making specified legal arguments

that the Congress disfavored. The "salient" fact was that the Legal Services Corporation was "designed to facilitate private speech," not to act as a conduit for the government's message. Velazquez, 531 U.S. at 542. Likewise, in Rosenberger, the Court invalidated the University of Virginia's refusal to fund student newspapers espousing a religious viewpoint when it funded other newspapers, explaining that "viewpoint-based restrictions are [not] proper when the University does not itself speak or subsidize transmittal of a message it favors but instead expends funds to encourage a diversity of views from private speakers." 515 U.S. at 833-34 (citations omitted).

The e-rate and LSTA programs supporting Internet access in libraries, like the subsidies for student newspapers in Rosenberger and the legal services program in Velasquez, clearly serve to encourage diverse private speech, in this case between library patrons and Internet speakers, not to communicate government speech. As a result of the size of the Internet and the ease of disseminating speech electronically, the Internet is like a vast town square, in which "any person with a phone line can become a town crier with a voice that resonates farther than it could from any soapbox." Reno, 521 U.S. at 870. "[A]t any given time 'tens of thousands of users are engaging in conversations on a huge range of subjects.' It is 'no exaggeration to conclude that the content on the Internet is as diverse as human thought.'" Id. at 852 (citation and footnote omitted). In no way, therefore, can the vast majority of speech on the Internet be described as conveying a government-sponsored message.

The fact that public libraries are the program recipients affected by CIPA further undermines any claim that the programs were intended to promote government speech. The mission of public libraries is not to serve as mouthpieces for government propaganda. A library

is neither a government speaker nor a purely educational institution; it is, instead, a "mighty resource in the free marketplace of ideas," Minarcini v. Strongsville City School Dist., 541 F.2d 577, 582 (6th Cir. 1976), "designed for freewheeling inquiry." Board of Education v. Pico, 457 U.S. 853, 915 (1982) (Rehnquist, J., dissenting). Furthermore, "Public libraries lack the inculcative mission that is the guiding purpose of public . . . schools . . . . As such, no curricular motive justifies a public library's decision to restrict access to Internet materials on the basis of their content." Loudoun I, 2 F. Supp. 2d at 795.

As in the Supreme Court's most recent and most relevant case involving speech restrictions attached to funding statutes, "[t]he private nature of the speech involved here, and the extent of [CIPA's] regulation of private expression, are indicated further by the circumstance that the government seeks to use an existing medium of expression and to control it, in a class of cases, in ways which distort its usual functioning." Velazquez, 121 S. Ct. at 1049. "Where the government uses or attempts to regulate a particular medium," courts should look at the medium's "accepted usage in determining whether a particular restriction on speech is necessary for the program's purposes and limitations… . The First Amendment forb[ids] the Government from using [a] forum in an unconventional way to suppress speech inherent in the nature of the medium." Id. In Velazquez, the medium analyzed by the Supreme Court was the judicial branch itself: "Restricting LSC [Legal Services Corporation] attorneys in advising their clients and in presenting arguments and analyses to the courts," by prohibiting them from attempting to amend or otherwise challenge existing welfare law, "distorts the legal system by altering the traditional role of the attorneys." Id. at 1050.

CIPA similarly distorts the usual functioning of the public library and alters the traditional role of librarians. Plaintiffs will prove that the traditional function of libraries includes providing confidential access to a wide variety of uncensored information. The very purpose of public libraries is to provide free access to books, ideas, resources, and information for education, employment, enjoyment and self-government. Libraries celebrate and preserve democratic society by making available the widest possible range of viewpoints, opinions, and ideas. The overriding function of the library, as described by both the plaintiffs' and the government's library witnesses, is to provide access to any speech requested by a patron, so long as that speech is legal and realistically acquirable. Yet the overriding result of CIPA will be the widespread censorship in libraries of protected Internet speech, as plaintiffs' experts will show.

Furthermore, in contrast to the ineffective and censorious requirements of CIPA, librarians already use their professional skills and methods to help patrons find content they want on the Internet and avoid content they do not want, including but not limited to: 1) policies for Internet usage that prohibit access to illegal content and set other guidelines for using the Internet at the library; 2) the use of handouts, online guides, training sessions and Web pages highlighting library recommended sources to teach library patrons how to use the Internet effectively and responsibly; 3) providing Internet terminals with blocking software installed as an optional, rather than mandatory, means of accessing the Internet; and 4) the use of wrap-around privacy screens to maintain a non-threatening Internet environment.

VII. CONCLUSION

For the foregoing reasons, plaintiffs respectfully request that the Court:

A. Declare that Sections 1712 and 1721(b) of the Children's Internet Protection Act, codified at 20 U.S.C. § 9134 and 47 U.S.C. § 254(h), on their face and as applied to plaintiffs, violates the First and Fifth Amendments of the United States Constitution;

B. Permanently enjoin defendants from enforcing Sections 1712 and 1721(b) of the Children's Internet Protection Act;

C. Award plaintiffs such costs and fees as are allowed by law pursuant to 28 U.S.C. § 2412; and

D. Grant plaintiffs such other and further relief as the Court deems just and proper.

Respectfully Submitted,
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