

The court "Order" dated 05/30/2008 was provided to www.youtube.com/mountvernon1805 by Coshocton County Prosecuting Attorney Bob Batchelor. Underlining added.

Pages 2-4 are key pages from a decision by Judge Solomon Oliver, Jr. dated 08/08/2008 that "denies Plaintiffs' Preliminary Injunction Motion." Underlining added. (A full copy of the decision can be found at: <http://mountvernon1805.yolasite.com/resources/84%20order.pdf>)

Pages 5-6 is the email exchange with Batchelor. Email address redacted.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

B & B Entertainment, Inc., *et al.*,

Plaintiffs,

Case No. 2:08cv462

v.

Judge Michael H. Watson

City of Coshocton, Ohio, *et al.*,

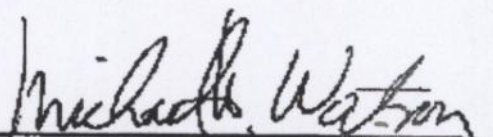
Defendants.

ORDER

This matter is set for a preliminary injunction hearing on June 6, 2008. On May 30, 2008, counsel for the parties informed the Court of their intent to wait for a decision from the hearing on the preliminary injunction motion in *84 Video v. Thomas Sartini*, 1:07cv3190, United States District Court, Northern District of Ohio, currently pending before the Honorable Solomon Oliver, Jr., as it involves the same legal issues.

Accordingly, the June 6, 2008 preliminary injunction hearing is hereby **VACATED**. Additionally, this matter is hereby **STAYED pending a decision on the preliminary injunction motion in 84 Video.** Within 30 days of the filing of the decision in 84 Video, Plaintiff shall provide the Court with a copy of the decision and notify the Court of how it wishes to proceed with this action.

IT IS SO ORDERED.


Michael H. Watson, Judge
United States District Court

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

84 VIDEO/NEWSSTAND, INC., <i>et al.</i> ,)	Case No.: <u>1:07 CV 3190</u>
)	
Plaintiffs)	
)	
v.)	JUDGE SOLOMON OLIVER, JR.
)	
THOMAS SARTINI, <i>et al.</i> ,)	
)	
Defendants)	<u>ORDER</u>

Plaintiffs 84 Video/Newsstand, Inc., et al. ("Plaintiffs") challenge the constitutionality of Ohio Revised Code § 2907.40, which regulates sexually oriented businesses in Ohio. Pending before the court is: (1) Plaintiffs' Preliminary Injunction Motion (ECF No. 3); (2) Motion of Defendant Mahoning County Prosecutor Paul J. Gains to Adopt and Incorporate by Reference the State of Ohio's Memorandum Contra Plaintiffs' Motion for a Preliminary Injunction ("Gains Motion to Incorporate," ECF No. 81); and (3) Motion of Defendant Hamilton County Prosecutor Joseph T. Deters to Adopt and Incorporate by Reference the State of Ohio's Memorandum Contra Plaintiffs' Motion for a Preliminary Injunction ("Deters Motion to Incorporate," ECF No. 83.) For the following reasons, the court denies Plaintiffs' Preliminary Injunction Motion, grants Gains's Motion to Incorporate, and grants Deters's Motion to Incorporate.

I. FACTS

A. The Parties

constitutes irreparable harm. While the court does not dispute this assertion, the court finds, for the reasons stated above, that Plaintiffs have not demonstrated that their First Amendment rights have been denied. Although the hours of operation restriction requires sexually oriented businesses to close from midnight until 6 a.m., the businesses may still operate for the remaining eighteen hours a day. Therefore, R.C. § 2907.40 is merely a reasonable regulation on the time, place, and manner in which Plaintiffs may exercise their First Amendment rights. Moreover, the only injury Plaintiffs identify as a result of R.C. § 2907.40 is a loss of revenue. However, “the inquiry for First Amendment purposes is not concerned with economic impact.” *Renton*, 475 U.S. at 54 (citation omitted).

Therefore, in balancing the competing interests of the parties and considering that Plaintiffs have not demonstrated a substantial likelihood of success on the merits that R.C. § 2907.40 deprives Plaintiffs of their First Amendment rights, the court finds that Plaintiffs fail to demonstrate irreparable harm. Additionally, when comparing the competing harms to the parties, the court finds that the scales tip in favor of Defendants. Defendants argue that they will suffer irreparable harm from the issuance of a preliminary injunction because an injunction barring enforcement of R.C. § 2907.40 during the parties’ ongoing litigation would allow secondary effects to go unabated and Ohio’s substantial interest in preventing these effects to go unfulfilled. Accordingly, the court finds that this prong weighs in favor of Defendants.

C. Public Policy Interests

The court finds that the evidence provided by Defendants demonstrates that the Ohio General Assembly, after extensive hearings and consideration of Plaintiffs’ arguments, enacted R.C. § 2907.40 to minimize the adverse effects of sexually oriented businesses in Ohio and benefit its citizens. Accordingly, the court finds that this factor weighs in favor of Defendants.

IV. CONCLUSION

For the reasons stated above, the court denies Plaintiffs' Motion for Preliminary Injunction (ECF No. 3), grants Gains's Motion to Incorporate (ECF No. 81), and grants Deters's Motion to Incorporate (ECF No 83.) The court will hold a telephonic status conference with the parties on August 21, 2008, at 4:00 p.m.

IT IS SO ORDERED.

/s/SOLOMON OLIVER, JR.
UNITED STATES DISTRICT JUDGE

August 8, 2008

RE: Media inquiry - The Foxhole

2 messages

Bob Batchelor <bobbatchelor@ [REDACTED]>

Thu, Aug 19, 2010 at 3:34 PM

To: S Stickle <sam [REDACTED]>

You can pick up a copy of the Order at my office if you like. Please let me know.

-----Original Message-----

From: S Stickle [mailto:sam [REDACTED]]

Sent: Wednesday, August 18, 2010 8:50 PM

To: Bob Batchelor

Subject: Media inquiry - The Foxhole

Bob Batchelor,

This is a follow-up to my email of the 15th. I didn't receive a reply to that email; perhaps it was overlooked or you are still researching the information.

Media reports have credited your office as taking the position that a judge has issued an order preventing the Coshocton County Sheriff's Office from taking action on the Foxhole's violation of section 2907.40 (b) of the Ohio Revised Code. Are those reports correct?

If so, would you be able to provide the information about that order?

You may be interested in a short video I posted online that documents the Foxhole's violation of the law:

<http://www.youtube.com/watch?v=Ld7JhYNC9iM>

Sincerely,

Sam Stickle

----- Forwarded message -----

From: S Stickle <sam [REDACTED]>

Date: Sun, Aug 15, 2010 at 2:31 PM

Subject: Media inquiry - The Foxhole

To: bobbatchelor@ [REDACTED]

Bob Batchelor,

The zanesvilletimesrecorder.com published an article on August 14, 2010 that states an order by the U.S. District Court Southern District Court of Ohio has put a hold on enforcing section 2907.40 (b) of the Ohio Revised Code.

Would you be able to provide the date of the order and the name of the judge? (If you would happen to have an electronic copy of the judge's

order, could you send it as an attachment?)

Sincerely,

Sam Stickle

sam [REDACTED]

NOTICE TO RECIPIENT:
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A COMMUNICATION PRIVILEGED BY LAW.
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PLEASE NOTIFY US IMMEDIATELY OF THE ERROR BY RETURN E-MAIL AND PLEASE DELETE THIS
MESSAGE FROM YOUR SYSTEM.

S Stickle <sam [REDACTED]>
To: Bob Batchelor <bobbatchelor [REDACTED]>

Thu, Aug 19, 2010 at 4:08 PM

Bob Batchelor,

Thanks for replying. I'll probably stop by tomorrow to pick-up a copy.

Thanks again,

Sam Stickle

[Quoted text hidden]
