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ANAKA HUNTER,

Plaintiff,

v.

CITY OF SALEM, MISSOURI, a

2. Plaintiff brings this cause of action for violations of her First Amendment rights, made applicable to the Defendants through the Fourteenth Amendment. In particular, the Library's policy of blocking content based on viewpoint is unconstitutional. Additionally, the policies, practices, and customs of blocking information about minority religions based on viewpoint violate the Establishment Clause by giving official preference to certain religious viewpoints while blocking others. Further, the Library significantly burdens the First Amendment rights of patrons who ask to have filters removed, or to have specific websites or pages unblocked, when content is wrongly overblocked by filters installed and maintained in purported compliance with the Children's Internet Protection Act, 20 U.S.C. § 9134(f) ("CIPA"), and MO. REV. STAT

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6. Plaintiff is an adult resident of Salem, Missouri. Plaintiff pays property taxes to the City of Salem.

7. Salem Public Library is a public library located in Salem, Missouri. It is established pursuant to MO. REV. STAT. § 182.140 and its primary source of funding is property taxes collected by City of Salem, Missouri.

8. Defendant City of Salem, Missouri created the Board of Trustees for Salem Public Library and the City's Mayor appoints the members of the Board of Trustees. City of Salem is a municipality and political subdivision of the State of Missouri.

9. Defendant Board of Trustees of the Salem Public Library is a body corporate that operates the Salem Public Library and is authorized by statute to sue and be sued. MO. REV. STAT. § 182.200.

10. Defendant Glenda Wofford is a resident of Dent County, Missouri, and the director of the Salem Public Library. She is sued in both her individual and her official capacities.

11. At all times relevant to this complaint, Defendants acted under the color of law.

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12. Beginning in or about July 2010, Plaintiff Hunter conducted research at the Salem Public Library on Native American tribes and

information about Native American spirituality and related spirituality were blocked.

15. Hunter first brought the improper blocking to the attention of Wofford in or about July 2010, by requesting that the Internet sites she sought to view on Native American cultural and religious history and the Wiccan Church be unblocked for her research.

16. Wofford responded that there was nothing she could do and that it was up to the filtering system which websites library patrons could view.

17. Subsequent to her initial request, Hunter sought to have a particular website

Plaintiff to be reasonably concerned that she would be reported to the police if she continued to attempt to access websites about Native American cultural and religious history and the Wiccan Church.

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Internet access to the public.

39. The Library has expended identifiable amounts of taxpayer funds for the purchase and ongoing maintenance and upkeep of the Netsweeper filtering software and associated services.

40. Netsweeper assigns websites to categories. Available categories include “adult image,” “criminal skills,” “extreme,” “general,” “IWF” (websites tagged by the Internet Watch Foundation as likely to contain images of child abuse), “occult,” “pornography,” and “religion.” Websites not categorized by Netsweeper as “adult image,” “extreme,” “IWF,” or “pornography” are not likely to contain visual depictions that are obscene, child pornography, harmful to minors within the meaning of 20 U.S.C. § 9134(f), or pornographic for minors within the meaning of MO. REV. STAT. § 573.010(14).

41. Netsweeper allows library ICF administrators to determine which categories are allowed and which are blocked by default.

42. Netsweeper allows library ICF administrators to block or unblock individual domains by default.

43. Netsweeper allows library ICF administrators to block or unblock individual pages by default.

44. Netsweeper allows library ICF administrators to temporarily disable blocking for individual categories.

45. Netsweeper allows library ICF administrators to temporarily disable blocking for individual domains.

46. Netsweeper allows library ICF administrators to temporarily disable the blocking for individual pages.

47. Netsweeper allows library ICF administrators to temporarily disable

49. Upon information and belief, Wofford was at all relevant times, and remains, the Library's ICF administrator with the ability to change Netsweeper's settings on the Library's publicly accessible computer terminals.

50. Upon information and belief, Wofford and the Board were at all relevant times, and remain, the policymakers who determine which categories to block or unblock.

51. At all relevant times, it was the policy, practice, and custom of Defendants to block by default websites categorized as "occult."

52. Defendants know that the "occult" category substantially overblocks websites, including those the Plaintiff sought and asked to view related to Native American cultural and religious history and the Wiccan Church.

53. Netsweeper categorizes numerous websites discussing minority religions, religious practices, and beliefs from a positive or neutral viewpoint as "occult," including but not limited to:

- a. [About.com](http://paranormal.about.com) no paranormal.about.com, a viewpoint-neutral portal to news and discussions of paranormal issues;
- b. [All About Spirituality](http://www.allaboutspirituality.org) (www.allaboutspirituality.org), discussing from a neutral viewpoint numerous topics in spirituality, including angels, astrology, meditation, paganism, shamanism, and yoga.
- c. [Astrology.com](http://www.astrology.com) (www.astrology.com), discussing astrology and offering horoscope readings and similar services;
- d. [The Wiccan Church](http://www.wicca.org) (www.wicca.org), the official homepage of the Wiccan Church;

- e. **Cult FAQ** (www.cultfaq.org), a viewpoint-neutral discussion of the cult phenomenon, including links to resources such as counseling and support for cult (ex-)members and their families;
- f. **The Encyclopedia of Death and Dying** (www.deathreference.com), containing viewpoint-neutral discussions of various cultures' and religions' ideas of death and death practices;
- g. **Wicca** (en.wikipedia.org/wiki/Wicca), a viewpoint-neutral discussion of the Wiccan Church;
- h. **Witchvox** (www.witchvox.com), an overview of pagan belief systems, such as Druidism, Haitian Voodoo, Neopaganism, and Wicca;

54. At the same time, Netsweeper categorizes numerous websites discussing the *same topics* from the point of view of mainstream religions as either “religion” or “general,” including but not limited to:

- a. **Astrology and Coping with Beliefs** (<http://www.northforest.org/ChristianTopics/Astrology.html>), a discussion of astrology from a Christian viewpoint;
- b. **Catholic Encyclopedia** (www.newadvent.org/cathen/11388a.htm), a discussion of Paganism from a Catholic viewpoint;
- c. **Christian Answers to Paranormal Questions** (christianparanormalanswers.com), a site that describes itself as “Answers about the Paranormal from a Christian viewpoint”;

d. www.gotquestions.org/voodoo-Bible.html

(www.gotquestions.org/voodoo-Bible.html), a discussion of Voodoo from a Christian viewpoint.

55. Defendants know that the “occult” category results in content- and viewpoint- discrimination against non-mainstream religions and beliefs.

56. Blocking websites that Netsweeper categorizes as “occult” is not required by CIPA.

57. Blocking websites that Netsweeper categorizes as “occult” is not required by MO. REV. STAT. § 182.827.3.

58. At all relevant times, it was the policy, practice, and custom of Defendants to block by default websites categorized as “criminal skills.”

59. Defendants know that the “criminal skills” category overblocks websites, including those the Plaintiff sought and asked to view related to Native American cultural and religious history and the Wiccan Church.

60. Blocking websites that Netsweeper categorizes as “criminal skills” is not required by CIPA.

61. Blocking websites that Netsweeper categorizes as “criminal skills” is not required by MO. REV. STAT. § 182.827.3.

62. At all relevant times, it was and remains Defendants’ policy, practice, and custom to impose substantial burdens for patrons seeking to unblock websites that are overblocked by the Library’s ICF.

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Free Speech Clause

63. Plaintiff repeats, re-alleges, and incorporates by reference the allegations in the foregoing paragraphs of this complaint as if fully set forth herein.

64. Defendants' policies, practices, and customs regarding blocking websites beyond what is required by CIPA or MO. REV. STAT. § 182.827.3 are content- and viewpoint-based restrictions on access to speech protected by the First Amendment.

65. Defendants' policies, practices, and customs regarding blocking websites are not narrowly tailored to serve a compelling state interest.

66. Plaintiff has no adequate remedy at law for the continuing violation of her constitutional rights.

67. Plaintiff has been injured by Defendants' policies, practices, and customs of blocking religious content based upon its viewpoint because she was prevented from accessing content and deterred from seeking to access content.

68. By refusing to unblock, at Plaintiff's request, websites not containing or likely to contain visual depictions that are obscene, child pornography, harmful to minors, or pornographic for minors, Defendants have created a substantial burden on Plaintiff's access to speech protected by the Free Speech Clause.

69. By discouraging Plaintiff from attempting to access, and creating undue delay in unblocking, websites not containing or likely to contain visual depictions that are obscene, child pornography, harmful to minors, or pornographic for minors, Defendants have created a substantial burden on Plaintiff's access to speech protected by the First Amendment.

70. To the extent Defendants' action, policies, practice, and customs are in

76. Plaintiff has no adequate remedy at law for this continuing violation of her constitutional rights.

WHEREFORE, Plaintiff prays this Court award Plaintiff:

- A. A declaratory judgment pursuant to 42 U.S.C. § 1983 finding that the Defendants' acts, policies, practices, and customs at issue are unconstitutional;
- B. A permanent injunction enjoining Defendants from continuing to enforce or implement the unconstitutional policies, practices, and customs;
- C. Nominal damages for deprivation of her constitutional rights;
- D. Costs, including reasonable attorneys' fees, pursuant to 42 U.S.C. § 1988; and
- E. Such other and further relief as is just and equitable.

Respectfully submitted,

DANIEL MACH¹
AMERICAN CIVIL LIBERTIES
UNION FOUNDATION