


Brewvies wants judge to stop DABC from enforcing Utah obscenity law

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SALT LAKE CITY — Brewvies Cinemapub wants a federal judge to stop the Utah Department of Alcoholic Beverage Control from taking any action against the theater for allegedly violating a state obscenity law.

Brewvies attorney Rocky Anderson asked U.S. District Judge David Nuffer to issue a temporary restraining order until a hearing can be held on a preliminary injunction. He argues the theater would likely win its lawsuit on the merits and that the law is unconstitutional.

Randall Miller, Brewvies' owner, notes in an affidavit that he learned just before signing the document that the DABC voluntarily stayed administrative proceedings against the theater, but that he's fearful of future enforcement for showing nonobscene movies.

"Because of the DABC's continued pressure on Brewvies to pre-screen and censor films, I am deeply concerned about the potential response from customers, film distributors and investors about the continuing threat of the DABC penalizing, or even destroying, Brewvies," Miller wrote.

Asked about holding off on any disciplinary action against the theater, DABC spokeswoman Vickie Ashby reiterated the agency isn't commenting on active litigation. The DABC commission issued a statement Tuesday saying it would have no comment on the issue.

DABC has threatened to revoke Brewvies' liquor permit or fine the theater for serving drinks while screening "Deadpool," which features simulated sex scenes.

State alcohol regulators filed a complaint against Brewvies after three undercover officers attended a screening of the popular R-rated movie in February.

Investigators cited a state obscenity law that is generally used to regulate alcohol and nudity at strip clubs, which are required to have dancers wear G-strings and pasties if the club serves liquor.

The law also bans the showing of any film with sex acts or simulated sex acts, full-frontal nudity or the "caressing" of breasts or buttocks. It only applies to businesses with liquor licenses, so most Utah movie theaters, which are alcohol free, are not cited under the law.

Anderson, a former mayor of Salt Lake City, said he's insisting on no more enforcement of the law at all.

He contends an establishment licensed to sell alcohol in Utah would be threatened with punishment for showing classic images such as Michelangelo's statue of David or Botticelli's "The Birth of Venus."

In court documents, Brewvies says that at least one of the undercover agents ordered a beer during the movie.

The agents also noted five scenes and an animated sequence in the final credits that triggered a notice of DABC action against the theater, according to court documents. The scenes include the main character touching his girlfriend's breast, being briefly nude in a fight as well as female nudity at a strip club.

The Utah Attorney General's Office issued a statement Friday, saying it would continue to support and defend DABC's enforcement of the law.

"The attorney general does not make the law. Our duty is to defend both the state agency and the laws that are passed by the people," said spokesman Daniel Burton. "The proper channel for changing state law is through the legislative process."

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