

---

# Hughes Hubbard & Reed

## US Supreme Court Strikes Down California Video Game Law

### Client Advisories

Hughes Hubbard & Reed LLP • A New York Limited Liability Partnership  
One Battery Park Plaza • New York, New York 10004-1482 • +1 (212) 837-6000

Attorney advertising. Readers are advised that prior results do not guarantee a similar outcome. No aspect of this advertisement has been approved by the Supreme Court of New Jersey. For information regarding the selection process of awards, please visit <https://www.hugheshubbard.com/legal-notices-methodologies>.

---

The Supreme Court has struck down a California law that sought to regulate the sale of video games by imposing a labeling requirement based on content and prohibiting the rental or sale of certain games to minors. In its decision, the Court found that, like books, plays and movies, video games communicate ideas through literary devices such as characters, dialogue, plot and music and through features distinctive to the games' medium, such as the player's interaction with the virtual world. As such, the games were entitled to First Amendment protection and the California law, which would have prohibited the sale of "violent video games" to minors and required such games to be specially labelled, was unconstitutional.

In dismissing the State's arguments that the law was addressing a substantial need of parents which wish to restrict their children's access to violent games but cannot do so, the Court stated that the ratings of the Entertainment Software Rating Board (ESRB) and video retailers' efforts in not selling games rated "M" to minors helped ensure that children would not be able to purchase violent video games. Thus, the "remaining modest gap" that the California law was intended to fill could not be deemed a "compelling state interest" that could overcome First Amendment protection for the games.

The full [decision](#) can be found here. Hughes Hubbard & Reed represented the Entertainment Consumers Association in filing an amicus brief opposing the law.

### Related Areas of Focus

[Media, Technology & Commercial Transactions](#)