

STATEMENT OF FLOYD COUNTY COMMISSIONERS
RE: ENTICE SETTLEMENT

The Floyd County Board of Commissioners today announced the settlement of the lawsuit brought in 2006 by Entice Adult Superstore ("Entice") against Floyd County. Under the agreement, Entice will cease operating an adult book and adult video store by December 31, 2008.

While the sale of sexually explicit materials by law may not be completely prohibited even at mainstream businesses, the law does allow for regulation of businesses meeting certain sales and inventory thresholds. In May of 2006, Floyd County passed an ordinance regulating sexually oriented businesses. The County contended that under state law and the County ordinance, Entice was not authorized to operate an adult book and adult video store at 5561 New Calhoun Highway (GA 53). Entice disagreed and sued the County in federal court in August 2006, claiming that a Georgia state law regulating the location of Entice as an "explicit media outlet" and the County's sexually oriented business ordinance were both unconstitutional. The state law prohibited Entice from opening a store at its present location because the business was situated within 1000 feet of property zoned primarily for residential purposes. The state law applied to Entice because at least 50% of its inventory consisted of materials with sexually explicit nudity or conduct. The County ordinance restricted Entice even more defining "adult bookstore or adult video store" as a business which has at least 35% of its inventory, floor area, or revenue dedicated to or derived from explicit media.

In March 2008, United States Federal District Court Judge Harold Murphy heard the case and upheld the Georgia statute and the County's ordinance in their entirety. The court specifically found that Entice was not authorized to operate an adult book and adult video store at its location. Entice appealed that ruling to the United States Court of Appeals.

Now, rather than continuing the expensive litigation, Entice has agreed to dismiss its appeal within five days, remove "Adult Superstore" from its signage by October 15, 2008, and modify its operations to no longer be an adult bookstore or adult video store (*i.e.*, reduce its explicit media inventory to below the 35% threshold) by December 31, 2008. Entice and its owners have also agreed not to open another "explicit media outlet" in Floyd County. The result of the agreement between the parties is that Floyd County's victory in federal court against Entice will become final, and Entice will dismiss its appeal with prejudice. The dismissal also makes Judge Murphy's order in favor of the County controlling and confirms the constitutionality of the County's sexually oriented business ordinance as it pertains to adult bookstores, strip clubs and similar businesses.