

Robert Barnes

Reporter

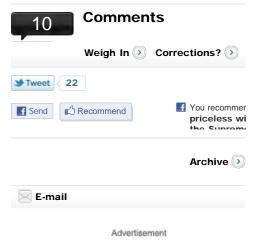
A priceless win at the Supreme Court? No, it has a price.

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By Robert Barnes, Published: July 25

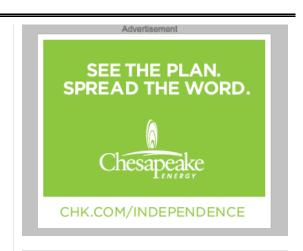
A big victory at the Supreme Court isn't priceless, after all. It costs somewhere north of \$1,144,602.64.

That's what the video game industry spent to convince the court that California's law banning the sale or rental of violent video games to minors violated the First Amendment. And it <u>asked the court</u> Monday to make the state pay the legal cost of the case, most of which went to the law firm of <u>Jenner & Block</u>.



Two industry trade groups — the Entertainment Merchants Association and Entertainment Software Association — relied on civil rights laws in asking for the fees. Federal law allows the prevailing parties in such cases to collect their costs from the losing side.

In *Brown v. Entertainment Merchants Association*, according to the motion, the industry "vindicated important First
Amendment rights and enjoined enforcement of an unconstitutional law."
The court voted 7 to 2 to strike down the law, with Justice Antonin Scalia writing that the Constitution does not give a state a "free-floating power to restrict the ideas to which children may be exposed."











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Christian Genetski, ESA's general counsel, said: "We certainly feel it's unfortunate that California taxpayers are suffering the consequences" of the state's decision to pass the law. But he said the industry warned then-Gov. Arnold Schwarzenegger (R) not to sign the legislation because every court that had looked at similar laws found

them unconstitutional.

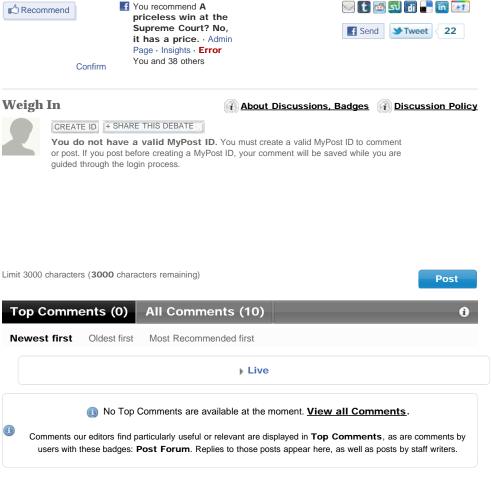
The parties received \$276,000 (plus interest) from the state when they prevailed at the district court level, and \$94,000 at the appeals court level. A spokeswoman said California Attorney General Kamala D. Harris had no comment on the motion.

The petition lays out in eye-popping detail — to anyone who doesn't work for a high-powered Washington law firm — what it costs to retain a high-powered Washington law firm for a Supreme Court case.

Nine Jenner & Block lawyers brought in nearly \$1.1 million in fees for their work in 2009 and 2010, led by veteran Supreme Court advocate Paul M. Smith. Smith, who argued the case before the court, spent more than 321 hours on the case, at an hourly rate of \$765.

The price is "similar" to what others charge "in the relevant market of attorneys who regularly practice before the Supreme Court," the motion says.

And all the bills aren't in yet. The costs for 2011 are still open; the cost of filing the motion will be in that invoice.

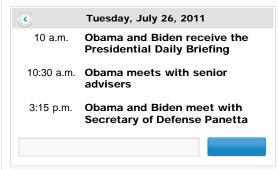




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