

## ADULT INDUSTRY UPDATE

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You can almost smell election season in the air. Sexual expression is a popular scapegoat for all of society's ills as the political races heat up. Adult businesses which have operated quietly for years are being targeted for eradication by politicians to lock in the conservative voting block. I represent a business in Flagler Beach, Florida which has presented bikini dancing for over a year without a problem and which is not in violation of any ordinance. Recently, uniformed law enforcement officials and code inspectors burst into the business and threatened to take all of the dancers, and customers to jail if the dancing continued. When my client went before the City Commission meeting to deal with the issue, they told him they didn't like the kind of dancing that went on and granted a license for entertainment, but included the word on the license certificate "no dancing". This reminds me of the old movie *Footloose*. This is the only city in the United States where you must seek permission before dancing. Can you say political witch hunt?

A bookstore in the City of DeBary, Florida by the name of Cupid's Corner is another casualty of election season. This clean, brightly-lit store which sells clothing, novelties, and some sexually-oriented video tapes, which has operated for years without a single complaint, is being asked to move to an industrial zone as elections near. It seems as though there should be more important issues addressed by political candidates than human sexuality. There appears to be a universal denial by politicians of the fact that the censorship attempts violate the First Amendment to the United States Constitution. Politicians are sworn to uphold the Constitution, but what kind of example do they set when they run on a platform of suppressing free speech. It seems as though real crime would be more deserving of their attention.

Speaking of real crime, it strikes me as unreal that Laura Barron, one of the firm's clients, was criminally charged with displaying an "obscene bumper sticker" and faces 60 days in jail or a \$500.00 fine. The obscene bumper sticker law, and it truly is an obscene law, was passed amid a cloud of controversy several years ago in response to the appearance of the "S--t Happens" stickers. My client's sticker reads "F\*\*k You, You F\*\*\*ing F\*\*k". It is a small sticker measuring approximately 2x2, and can be only read by tailgators, for whom it is intended. This is the first prosecution under this ridiculous law, and so it will be a test case. The Supreme Court has said that the F word is not, itself, obscene, and the Florida obscenity definition requires that the article at issue be sexually-oriented. I may be wrong, but I don't think my client intended anything sexual by the sticker.

Strangely enough, I find myself appearing on talk shows more than in court in recent weeks. Several of the firm's cases have garnered national attention including the Arizona nurses fired for having an adult web site, the first obscenity prosecution against Internet materials, and a newspaper man being fired for downloading a clip of an Interracial love scene from the new movie, *Black & White*. So far the clients and I have appeared on Court TV numerous times, the Oprah Winfrey Show and the Leeza Show. Sexual expression on the Internet has been the focus of national attention recently and has prompted litigation on various fronts. The State of Michigan attempted to pass an Internet content law, which was quickly enjoined. The same fate is likely to befall Virginia's Internet censorship law which was challenged on October 6. The Senate has passed an

anti-cyber squadding bill which would prevent people from registering domain names “bad faith” hoping to profit from association with a trademark owned by someone else. Even Barbie has found her way into Internet litigation. Mattel, the maker of the Barbie doll, has sued to shut down barbiesplaypen.com, a web site owned by Internet Dimensions featuring x-rated photos of women.

There is some indication that the war on porn has even reached its way to the highest levels of government. Republican Congressman Joe Pitts (R-Pa) has criticized the Clinton administration for being soft on porn. He cited current statistics that show that obscenity prosecutions have fallen from 42 under the Reagan/Bush administration to 6 under Clinton. Administration officials responded that they are concentrating on child pornography which, in this writer’s opinion, is where the effort should go. Meanwhile, a House of Representatives subcommittee approved legislation that would increase its war against obscenity and pornography. 10 million dollars is ear-marked for the child pornography / child exploitation program, which has increased from 2.4 million in the current year. The bill passed 410-2 on May 25, 1999. Of course, the justification for the increased funds is to protect children. “As more kids go online everyday, we need to ensure their safety, and it is time to let online pedophiles know that they can no longer hide behind their computer screens,” said the bill’s sponsor Rep. Nancy Johnson (R.-Conn.) Important to note, this program is also charged with the responsibility of pursuing obscenity violations.

Even traditional, non-sexual art isn’t safe from the censors wrath during election season. The headlines are full of quotes from Mayor Rudolph Julianne who claims to take the moral high ground at the expense of First Amendment rights by pulling art funding for the Brooklyn Museum of Art in New York City. The art exhibit has been called “offensive” and “shocking,” and so Julianne saw fit to punish the museum by freezing government funds. The museum has filed suit and is represented by competent First Amendment attorney Floyd Abrahams. We look forward to a quick victory, and to giving Mayor Julianne a civics lesson in the process.

Maybe the politicians have their finger on the pulse of the voters, or at least their pollsters are accurate. A recent study conducted by the Freedom Forum’s First Amendment Center, in Nashville, conducted a survey yielding the following surprising results:

- More than half of the respondents believe the press has too much freedom;
- Half believe the Constitution should be amended to override the First Amendment’s protection of flag burning as political protests; and
- Nearly one third believed the First Amendment goes too far in the rights it guarantees.

Maybe more of us who disagree should vote.