

ADULT INDUSTRY UPDATE

By: Lawrence G. Walters

www.FirstAmendment.com

Plenty of news on the First Amendment front. In a blatant disregard for his sworn oath to uphold the Constitution to the United States of America, Representative Henry Hyde is pushing legislation designed to censor violent content from movies and video games. The proponents of this legislation have expressed concerns that current obscenity laws do not provide a vehicle to prosecute violent content. Duh! A long time ago we decided that the only exception that we are willing to make to free speech is sex, not violence. After all, if violence is to be censored, we will have to stop selling the local newspaper and maybe replace the evening news with Disney cartoons. Yet there is actually some chance that this idiotic law will make it through to a House vote. Speaking of violence, the publisher of the book "*Hitman*", Paladin Press, has agreed to a multimillion dollar settlement of the lawsuit brought against it by the relatives of an individual murdered whose killer allegedly followed the instructions contained in *Hitman*. This was a big loss for the First Amendment and sends the message to other crime victims that you can successfully sue the media for the mere dissemination of ideas. The same techniques described in *Hitman* can be seen in any Sylvester Stallone or Clint Eastwood thriller. Perhaps Universal Studios will be the next defendant and the issue will be taken more seriously.

In the battle against adult entertainment, the news is equally disturbing. The New York adult bars and bookstores hit the end of the road in their legal battle when the United States Supreme Court refused to grant review of the decision forcing closure of most of the adult businesses. This was the most significant adult entertainment zoning battle in recent history and represents an unfortunate loss for the industry. The South Carolina Supreme Court upheld a similar restrictive zoning ordinance which was challenged by the Thee Dollhouse, unsuccessfully.

In my area of Central Florida, the Brevard County Commission has recently voted to hire the American Center for Law and Justice to rewrite its adult entertainment laws. The ACLJ is a fundamentalist Christian group founded by televangelist Pat Robertson. I am sure they will be objective and unbiased when they write the rules for the topless bar industry, though. Whatever happened to the separation between church and state? As observed by the local paper, it's like having the NRA write gun legislation. Interesting, their lawyer, David Cortman, Esquire, who proposed to write the new laws and defend them for free in the Florida courts, is not even admitted to practice law in the State of Florida.

In the first Internet obscenity case to be filed in the United States, the Defendant, Tammy Robinson, whom we represent, has turned this new medium against the prosecution. She has set up a legal defense fund whereby fans can join with a credit card to see her naked, with all proceeds going to her legal defense. Her site can be found at www.dreamnet.com/becka.

One piece of good news on the legal front, the City of Jacksonville, Florida was recently dealt a significant loss when the United States Court of Appeals for the Eleventh Circuit in Atlanta declared Jacksonville's Adult Entertainment Ordinance unconstitutional for failure to provide a sufficient opportunity for adult businesses to open and operate. The Appeals court also threw out other parts of the law; for instance the ability to jail owners of adult establishments simply for being

owners without showing any participation in wrongful conduct. Back to the drawing board for Jacksonville.

The adult film and Internet industry has continued to flourish despite intense opposition, however. According to *Forbes* Magazine, 8,948 hard core videos were released in the United States, in 1998, up from 1,275 in 1990. Americans rented 686 million adult tapes in 1998. The profits generated from the x-rated video industry have doubled over the last five years, generating some 5 billion dollars in sales last year. The adult Internet industry generates nearly a billion dollars and is forecasted to reach 3.21 billion in 2003 according to *Reuters*. With numbers like these, the industry should be able to put together a sizable legal defense fund to fight the modern censorship efforts. Such preparations are necessary to win the looming censorship battle.