

ATTACHMENT 10

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

BIG HAT BOOKS, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Cause No. 1:08-cv-0596-SEB-TAB
)	
PROSECUTORS: ADAMS, et al.)	
)	
Defendants.)	

DECLARATION OF JASON C. ZICKLER

I, Jason C. Zickler, upon my oath, declare and state as follows:

1. I am over eighteen (18) years of age and I have personal knowledge of the matters set forth in this Declaration. I am the President of the Indianapolis Downtown Artists and Dealers Association ("IDADA"). I verify that the facts stated herein are true and correct to the best of my knowledge, information, and belief.

2. IDADA is governed by a nine-member Board of Directors and has approximately 150 members, representing a broad spectrum of local artists, galleries and art dealers.

3. Many of IDADA's members offer to sell or sell works of art that could be deemed to fall within the definition of "sexually explicit materials" contained in the Statute, in that the art may contain images of nudity or sexuality. Although IDADA's members sell nothing obscene or unlawful, some might conclude that certain of this merchandise falls within the definition of "sexually explicit materials" contained in House Enrolled Act NO. 1042 (the "Statute"), in that the works of art contain images of nudity or sexuality that may be inappropriate to minors.

4. After June 30, 2008, IDADA and its members will host numerous exhibitions and shows at a variety of locations in Indianapolis where works of art that contain images of nudity or sexuality will be offered for sale.

5. Many of IDADA's members will change locations or open new locations after June 30, 2008. Many of IDADA's members will hire new sales employees after June 30, 2008.

6. To comply with the Statute, IDADA's members are likely to have to devote many hours per year to reviewing works of art to determine whether any portion of these items falls within the definition in the Statute, incorporating Ind. Code § 35-49-2-2, which includes material that "describes or represents, in any form, nudity, sexual conduct, sexual excitement, or sado-masochistic abuse" and other elements. The elements in the definition, including "prevailing standards in the adult community" and "serious literary, artistic, political, or scientific value for minors" are sufficiently complex and vague that IDADA's members will be required to devote significant resources to training employees and hiring legal assistance to comply with the statute, if they are able to comply at all.

7. If IDADA and its members pay the registration fee and are labeled purveyors of sexually explicit materials, customers and potential customers may refuse to patronize the business. IDADA's members do not want to be labeled as purveyors of sexually explicit material and believe that this would be injurious to their businesses and reputations.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Indianapolis, Indiana, on this 23 day of May, 2008.



Jason C. Zickler