

ATTACHMENT 9

**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 MAXWELL L. ANDERSON

I, Maxwell L. Anderson, 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 Melvin & Bren Simon Director and Chief Executive Officer of the Indianapolis Museum of Art (the "IMA" or the "Museum"). I verify that the facts stated herein are true and correct to the best of my knowledge, information, and belief.

2. The Museum is the fifth largest encyclopedic art museum in the United States, with a collection of more than 50,000 works that spans the scope and range of art history. The Museum also features national and international traveling exhibitions throughout the year. The Museum is dedicated to providing a welcoming environment that fosters meaningful encounters between its visitors and the art of different cultures.

3. Through various portals, the IMA sells products and materials that could be deemed to fall within the broad definition in the Statute. For instance, the IMA has two retail stores, the IMA Store and the Gallery Shop, where visitors can purchase books, gifts and other merchandise related to art featured in the Museum's special exhibitions and permanent collections. Via the

Museum's website, at <http://shop.imamuseum.org/>, members of the public can purchase merchandise similar to that found in its two stores. Although the IMA sells 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. Further, while the IMA's permanent collections are offered free to the public, tickets must be purchased by non-members for certain of the IMA's traveling exhibitions. The IMA also hosts the Summer Nights film series on the Museum's amphitheater, for which a small admission fee is charged. Both certain of the traveling exhibitions and some of the Museum's film series contain images of nudity or sexuality.


5. The Museum will hire new sales employees after June 30, 2008, and plans to open a new retail store in or about November 2008.

6. To comply with the Statute, IMA staff will have to devote significant time and resources to review items sold in its stores, on its website, in its permanent collection and in its traveling exhibitions 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 the Museum 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. The Museum does not want to be labeled as a purveyor of sexually explicit material and believes that such a label would be a misrepresentation or a mischaracterization and might deter visitors from exhibitions and programs that have true artistic and educational value.

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

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



Maxwell L. Anderson