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## CIVIL LIBERTIES GROUP, NYC ARTIST SEEK INJUNCTION ON U.S. WEB OBSCENITY PROSECUTIONS

Alliance of Free Speech Experts and Civil Liberties Groups  
Express Support For Landmark Lawsuit Seeking to Overturn Federal Web  
Obscenity Law

NEW YORK CITY (May 24, 2002) - The National Coalition for Sexual Freedom (NCSF) and artist Barbara Nitke today filed a motion seeking a preliminary injunction that would prevent the United States from using the obscenity provision of the Communications Decency Act (CDA) to prosecute individuals who operate Web sites.

This motion comes less than two weeks after the May 13th decision by the U.S. Supreme Court in *Ascroft v. ACLU*, in which a majority of the Justices stated that the application of local community standards to online materials could deprive citizens of their rights to free speech by allowing the most puritanical communities to enforce their own standards on the entire nation.

In December 2001, NCSF and Nitke filed a lawsuit in Federal District Court in New York City that would overturn the remaining obscenity provisions of the CDA. The indecency provisions were struck down by the Supreme Court in 1997.

"In light of the Supreme Court's recently expressed concerns about applying community standards to the Internet, it is more important than ever that we make sure this law is not enforced until its constitutionality can be determined," said Susan Wright, NCSF spokesperson. "We remain extremely concerned that Attorney General Ashcroft will seek prosecutions under this law."

"The purpose of this motion is to ensure that the Internet is not transformed from a free-ranging, open round-table into a forum in which only speech that is inoffensive under the most prudish standard is safe from fear of prosecution," said constitutional scholar and author John Wirenius, legal counsel for NCSF and a partner in Leeds Morelli & Brown, P.C.

The motion is supported by a wide range of expert testimony. Affidavits were submitted by: Arthur Danto, Johnsonian Professor Emeritus at Columbia University and an expert on Robert Mapplethorpe; pioneering Internet philosopher Howard Rheingold; and free speech activist and adult filmmaker Candida Royalle. Robert and Carleen Thomas, who were convicted in 1994 under the community standards of Memphis, TN for Internet postings that were

deemed inoffensive in their local Northern California community, filed testimony in support of the lawsuit.

A cross-section of experts and civil liberties groups also filed documents expressing their support of overturning the CDA. Joining NCSF and Nitke as "friends of the Court" are the Electronic Frontier Foundation, the First Amendment Lawyers Association, Society for the Scientific Study of Sexuality, the Triangle Foundation, and the National Center for Lesbian Rights.

The motion for a preliminary injunction was filed to a three-judge panel consisting of Circuit Judge Robert D. Sack, District Judge Richard M. Berman, and District Judge Gerard E. Lynch. The U.S. Attorney conversely filed a motion to dismiss the lawsuit on the grounds that the statute is plainly constitutional.

Hailed by The Village Voice for her quest "to find humanity in marginal sex," Nitke has gained worldwide attention for her photographs chronicling relationships between consenting adults engaged in sadomasochistic activities. She operates a Web site displaying her artwork at <http://www.barbaranitke.com>.

The National Coalition for Sexual Freedom (NCSF) is a national organization committed to protecting freedom of expression among consenting adults. Based in Washington, D.C., NCSF works through legal initiatives, lobbying, outreach, and education to promote greater understanding of sexuality and human rights.

For more information visit: <http://www.ncsf-foundation.org/press-room.html>