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CHALLENGING INTERNET OBSCENITY LAW, HISTORIC LAWSUIT IS FILED BY NATIONAL COALITION FOR SEXUAL FREEDOM AND ARTIST BARBARA NITKE

Outcome could overturn remaining Web censorship provision of Communications Decency Act

NEW YORK CITY (December 11, 2001) The National Coalition for Sexual Freedom (NCSF), a national civil liberties organization, and Barbara Nitke, an acclaimed New York City artist who operates her own Web site (www.BarbaraNitke.com), today filed a court challenge that aims to overturn the last remaining Internet censorship provision of the flawed Communications Decency Act.

In papers filed in Federal District Court in New York City, the NCSF and Nitke claim that the CDA's remaining obscenity provision is so broad and vague that it violates free speech and inhibits the discussion of sexual issues on the Internet among adults.

"Many people are unaware that one of the most powerful censorship provisions of the Communications Decency Act is still in place. Even fewer realize the dangerous effect it could have in the hands of an overzealous Administration and Attorney General," said Susan Wright, NCSF spokesperson. "Our goal is to overturn this unconstitutional provision before this Administration tries to score political points by attempting to enforce it."

"By allowing the most restrictive jurisdiction to define what speech can be banned as obscene from the Internet, the CDA allows one community to limit what the entire nation is allowed to discuss, to read or to view. The First Amendment does not allow any one locality to impose its morality on the nation," said constitutional scholar and author John Wirenius, legal counsel for NCSF and an attorney for Leeds Morelli & Brown, P.C., one of the country's most respected civil rights firms. Wirenius pointed out that local community definitions of what is obscene vary dramatically.

Based in Washington, D.C., The National Coalition for Sexual Freedom (NCSF) is a national organization committed to protecting freedom of expression among consenting adults. The NCSF Foundation works through legal initiatives, outreach, and education to promote greater understanding of sexuality and human rights. Many NCSF members maintain Web sites addressing sexual topics that could potentially be targeted for prosecution under the CDA.

In 1997, the Supreme Court struck down the CDA provision that criminalized any "indecent" or "patently offensive" speech on the Internet that can be viewed by a minor. However, the ruling left in place a provision deeming that sexually-oriented material that is "patently offensive under local community standards" is not protected by the First Amendment unless its author can prove its "redeeming social value."

Since the CDA does not actually define the "local community standard" that would apply to the Internet, the lawsuit claims that the provision would give the most conservative communities in the country the power to dictate what all Americans read,

write, and view on the Internet. Such uncertainty, the lawsuit claims, creates a "chilling effect" on all Internet content providers, including artists like Nitke, who must either resort to self-censorship or risk prosecution.

While no one has been prosecuted under the CDA, NSCF and other civil liberties groups fear that Attorney General John Ashcroft will seek to enforce the statute to placate conservatives who strongly supported his embattled nomination. The NCSF points to activists such as Beverly LaHaye of Concerned Women for America, who said during the nomination battle that Ashcroft, unlike Attorney General Janet Reno, would enforce "laws against obscenity."

Nitke of New York City said she filed the lawsuit with NCSF because she is concerned that her artwork could be deemed obscene under a more restrictive community's standards. Hailed by The Village Voice for her quest "to find humanity in marginal sex," Nitke has gained worldwide attention for her affecting and powerful photographs chronicling relationships between consenting adults engaged in sadomasochistic activities. A professional photographer since 1982, Nitke is on the faculty of the New York School of Visual Arts.

"The radical right has been extremely successful at scaring museums and publishers from showcasing provocative artwork and I fear that the Internet is their next target," said Nitke. "Artists like myself could be deprived of one of the last venues for displaying, discussing, and selling our artwork."

The full text of the complaint can be found at: <http://www.ncsf-foundation.org>

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., the NCSF Foundation works through legal initiatives, outreach, and education to promote greater understanding of sexuality and human rights. The NCSF was founded in 1997 to mobilize diverse grassroots communities to help change antiquated and unfair sex laws, and to protect free speech and advance privacy rights. NCSF is dedicated to ensuring that all consenting adults can express their sexual identity freely and openly, without fear. For more information, visit <http://www.ncsfreedom.org>.