

EXHIBIT 2

EXHIBIT 2

James J. Clancy
9055 La Tuna Canyon Road
Sun Valley, California 91352-2221
(818) 352-2069
Attorney *In Pro Se*
SN. 26946

ORIGINAL FILE
OCT 04 2002
LOS ANGELES
SUPERIOR COURT

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

JAMES J. CLANCY, acting as a Private)
Attorney General, }
Plaintiff, }

NO. LC062475

v.

AMERICAN TELEPHONE AND
TELEGRAPH, INC., (A.T.&T.), a New
York Corporation; THE HOT NETWORK;
THE HOT ZONE; VIVID VIDEO, a
Corporation; the VIVID
ENTERTAINMENT GROUP; PLAYBOY
ENTERPRISES, INC., CHRISTIE
HEFNER, JAMES HAHN, as the former
Los Angeles City Attorney; ROCKY
DELGADILLO, as the present Los Angeles
City Attorney; the LOS ANGELES CITY
COUNCIL; STEVE COOLEY, as the Los
Angeles County District Attorney;
LOYD W. PELLMAN, as the Los Angeles
County Counsel; the LOS ANGELES
COUNTY BOARD OF SUPERVISORS;
and JOHN ASHCROFT, as the U.S.
Attorney General; and DOES 1 through 10.

COMPLAINT IN EQUITY FOR (1) A
DECLARATORY JUDGMENT; (2) THE
ISSUANCE OF A SPECIFICALLY
CRAFTED "EMERGENCY" *RULE NISI*,
ORDER TO SHOW CAUSE; (3) A PARTIAL
SUMMARY JUDGMENT ON THAT PART
OF PLAINTIFF'S VERIFIED PLEADINGS
WHICH ARE ENHANCED BY
AUTOPTICAL PREFERENCES; (4) AN
ACCOUNTING AND FORFEITURE OF
UNLAWFUL PROFITS; AND (5) COSTS
INCLUDING ATTORNEY'S FEE.
PURSUANT TO *SERRANO V. UNRUH*, 326
C.3D 621 (1982), C.C.P. §1021.5, AND
PEOPLE V. E.W.A.P., INC., 106 CAL.APP.3D
315 (1980).

DEPT. M

Defendants. }

COMES NOW THE PLAINTIFF, acting as a Private Attorney General, to file his
Complaint in Equity: (1) for a Declaratory Judgment, (A) that, in the State of California,
'Consenting Adults' is not a defense to defendant *American Telephone and Telegraph, Inc.'s*
referred to hereinafter as *A.T.&T.*) unlawful broadcasts on Cable T.V. of three hard-core
pornographic films, and *malum in se* indecent sexual conduct which are pleaded by incorporation
as autoptical preferences in this Petition, and (B) that all of the films which *A.T.&T.* has broadcast
during the 23 month period from October 20, 2000, through October 2, 2002, are unlawful, *per se*

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13	ISSUANCE OF A SPECIFICALLY CRAFTED "EMERGENCY" <i>RULE NISI</i> ,	
14	ORDER TO SHOW CAUSE; (3) A PARTIAL SUMMARY JUDGMENT ON	
15	THAT PART OF PLAINTIFF'S VERIFIED PLEADINGS WHICH ARE	
16	ENHANCED BY AUTOPTICAL PREFERENCES; (4) AN ACCOUNTING	
17	AND FORFEITURE OF UNLAWFUL PROFITS; AND (5) COSTS	
18	INCLUDING ATTORNEY'S FEE, PURSUANT TO <u><i>SERRANO V. UNRUH</i></u> ,	
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27	<u>BROADCASTS OF MOTION PICTURE FILMS SUCH AS: "<i>101</i></u>	
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	<u>(HARD-CORE PORNOGRAPHY) AND "CONTRABAND" UNDER</u>	
	<u>FEDERAL STANDARDS, 19 U.S.C. §1305(A), AND THE RULES OF LAW</u>	
	<u>EXPRESSED IN THE 5-4 MAJORITY DECISION OF THE U.S. SUPREME</u>	
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1	THE U.S. SUPREME COURT IS DIRECTLY RESPONSIBLE FOR THE	
2	CREATION AND EXISTENCE OF THIS MORAL CABLE TELEVISION	
3	DILEMMA WHEREIN THE STATE AND NATIONAL MORALITY	
4	STATUTES HAVE FALLEN INTO DESUETUDE. PLAINTIFF CONTENDS	
5	THAT <u>"AS THE FIRST ORDER OF BUSINESS". THIS TRIAL COURT</u>	
6	<u>SHOULD NOW HEAR ARGUMENT ON TWO JURISDICTIONAL</u>	
7	<u>QUESTIONS: (1) WHETHER THIS COURT HAS A RIGHT TO CLOSE</u>	
8	<u>DOWN A.T.&T.'S UNLAWFUL BUSINESS ACTIVITY WHICH IS</u>	
9	<u>REGULARLY AND EXCLUSIVELY TRADING IN HARD-CORE</u>	
10	<u>PORNOGRAPHY; AND (2) WHETHER CONSENTING ADULTS MAY</u>	
11	<u>ENGAGE IN SUCH UNLAWFUL BUSINESS PRACTICE ON ANALOGUE</u>	
12	<u>CABLE 96 AND DIGITAL CABLE CHANNELS 457 AND 459 IN THE FACE</u>	
13	<u>OF THIS LEGAL CHALLENGE BY THIS PRIVATE ATTORNEY</u>	
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30	BY INCORPORATION AS AUTOTICAL PREFERENCES IN IS	
31	PETITION FOR WRIT OF MANDAMUS UNDER <u>PEOPLE EX REL. BUSCH</u>	
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33	THIS COURT WITH AN OPPORTUNITY TO ISSUE A <u>RULE NISI</u> ORDER	
34	WHICH WILL HAVE THE EFFECT OF HALTING, OVERNIGHT, THE	
35	TRADE (MANUFACTURE, DISTRIBUTION, SALE, PUBLICATION AND	
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1 THIS PRIVATE ATTORNEY GENERAL RESPECTFULLY CONTENDS THAT
2 THE U.S. SUPREME COURT IS FACING A MORAL CRISIS OF
3 CATASTROPHIC PROPORTIONS- AKIN TO THAT FACED BY THE
4 CATHOLIC CONFERENCE OF BISHOPS IN 1985. THE QUESTION IS,
5 "WILL THAT COURT, WITH KNOWLEDGE OF THE "DESUETUDE"
6 ALLEGED HEREIN, PERMIT THE *PLAYBOY* PHILOSOPHY TO ALTER
7 THE COMMONLAW MORAL STANDARDS OF COMMON DECENCY OF
8 THIS NATION BY CONTINUING TO BROADCAST ITS *HOT NETWORK*
9 AND *HOT ZONE* PORNOGRAPHIC FILMS TO A. T.&T. 'S PAY-PER-WEW
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8 **TABLE OF AUTHORITJES**

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15 (*Busch I*) 118 Cal.Rptr. 428, 429-431, 44 Cal.App.3d 56 (C.A. 2ND, Div.3, 1974), 34-35
16 *Evans Theatre Corp. v. Slaton* ("I am Curious [Yellow]"),
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2 U.S. Supreme Court No. 71-599, October Term, 1971, 7, 3

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2	<u><i>Paris Adult Theatre I, et al. v. Slaton</i></u> , (Exhibit 1, 1 st Pleading, "Appendix D-4")	
3	413 U.S. 49, 69, 70-73, 37 L.Ed.2d 446, 467, 93 S.Ct. 2628 (1973); reh. den.:	
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16 **American Law** Institute, 1962 Model Penal Code, gen. rf., 7
17 **Bible**, Book of Genesis,
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18 **Black’s Law** Dictionary, rev. 4TH Ed., definition of “*malum in se*”, 23
19 **Elements of Police Science**, *Rollin Perkins*, © 1942, Foundation Press, Inc., at pg. 53, 37
20 “Known Gang Territories”, *L.A. Daily News* (front page), September 16,2002, 19
21 “Man From La Mancha”, *Cervantes*, gen. rf. (Quote), 16
22 “Private Screening in Public Places”, (Exhibit 1, 1st Pleading, “Appendix F-9”)
23 *L.A. Times* news report, July 19,2001, 26
24 **Supreme Court Practice**, 7TH Edition,
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25 “Wall Street Meets Pornography”, (Exhibit 1, 1st Pleading, “Appendix F-4”)
26 *N.Y. Times* news report (12 pages), October 23,2000, by *Timothy Egan*, 15, 37-39
27 “Words Returning To Haunt U.S. Bishops”, *L.A. Times* news report, June 1,2002,
 by *Larry Stammer*, re the 92 page Doyle Report submitted to the 1985
28 **U.S. Conference of Catholic Bishops**, 87

1 iardcore pornography, depicting *malum in se*, indecent sexual conduct, which are moral public
2 nuisances and unlawful subject matter under California law (contraband); (2) for the issuance of a
3 specifically crafted “emergency” **Rule Nisi**, requiring defendant **A.T.&T.** to show cause why it
4 should not be ordered to cease further broadcast of said four unlawful hard-core films to its
5 ‘consenting adults’ viewers, pursuant to the last paragraph of Chief Justice Warren Burger’s
6 majority opinion in *Paris Adult Theatre I, et al. v. Slaton*, infra, at 413 U.S. on pages 69-70 and the
7 California Supreme Court decision in *Peoule ex rel. Busch v. Projection Room Theater, et al.*, infra,
8 at 17 Cal.3d 49-55; (3) for a Partial Summary Judgment on the pleadings as to that part of Plaintiff’s
9 verified pleadings which are enhanced by the autoptical preferences in the form of four computerized
10 **Time and Motion Studies** (i.e., still photo continuities) and computerized (timed) video tape picture
11 studies of three motion picture films which **A.T.&T.** has been broadcasting repetitiously during the
12 past 23 months; (4) for an accounting and forfeiture of the unlawful profits derived from the
13 broadcast of such haid-core films and *malum in se* indecent sexual conduct and moral public
14 nuisances and unlawful business during the 23 month period October 20,2000 through October 2,
15 2002; and (5) for costs including an attorney’s fee, pursuant to *Serrano v. Unruh*, 326 C.3d 621
16 (1982), C.C.P. §1021.5, and *People v. E.W.A.P., Inc.*, 106 Cal.App.3d 315 (1980).

17
18 **STATEMENT OF THE CASE**

19 **DECLARATION OF PETITIONER JAMES J. CLANCY AS A PRIVATE**
20 **ATTORNEY-GENERAL, IN SUPPORT OF A SPECIFICALLY CRAFTED**
21 **PETITION FOR WRIT OF MANDAMUS OR PROHIBITION, IN THE**
22 **FORM OF A RULE NZSZ ORDER TO SHOW CAUSE WHY A.T.&T.**
23 **SHOULD NOT BE ENJOINED AND PROHIBITED FROM FURTHER**
24 **BROADCASTS OF MOTION PICTURE FILMS SUCH AS: “101**
25 **CHEERLEADERS & I JOCK”, “HELL ON HEELS”, AND “MORE THAN A**
26 **HANDFUL 9” (TWO VERSIONS), WHICH ARE “PER SE OBSCENE”**
27 **(HARD-CORE PORNOGRAPHY) AND “CONTRABAND” UNDER**
28 **FEDERAL STANDARDS, 19 U.S.C. §1305(A), AND THE RULES OF LAW**
EXPRESSED IN THE 5-4 MAJORITY DECISION OF THE U.S. SUPREME
COURT IN PARIS ADULT THEATER I V. SLATON, ETC.

26 I, JAMES J. CLANCY state:

21 1. That I am the Petitioner in the above entitled action. who is appearing before this
28 Court as a Private Attorney-General. I am an Attorney at Law, and am licensed to practice law in

1 the State of California and in the U.S. Supreme Court. I am also the comolaining witness and
2 Counsel of Record in this lawsuit. I live and practice law at 9055 La Tuna Canyon Road, Sun Valley
3 (Los Angeles), California 91352, and have installed a Cable T.V. Service that carries and has
4 received the transmission and broadcast of *A.T.&T.*'s "In Demand. Pay Per View. Adults Onlv"
5 Service on Cable Channel 96 (analogue). and Cable Channels 457 and 459 (digital). respectively,
6 since January 1.2001, and have recorded such broadcasts onvideotapes, which are being filed with
7 the trial court concurrently with this Petition. in this California Public Nuisance Abatement action,
8 as obscene videotapes which are in violation of the U.S. Supreme Court's ruling in *Paris Adult*
9 *Theater Iv. Slaton*, 413 U.S. 49. 37 L.Ed.2d 446, 93 S.Ct. 2628 (1973).

10 2. That this Declaration is made: (A) to establish that Petitioner is qualified to bring this
11 action as a Private Attorney-General, and (B) to support Petitioner's Motion For A Specially Crafted
12 Order To Show Cause Bv Rule *Nisi* whv the Respondent *A.T.&T.* should not be prevented from
13 further broadcasts of the motion picture films: "*101 Cheerleaders & 1 Jock*, "*Hellon Heels*", and
14 "*More Than A Handful 9* , to Los Angeles, California, and elsewhere in the State of California, and
15 in the U.S.A., on the grounds that such videotapes are, by definition, "*per se* obscene" (hard-core
16 pornography) and as such are "Contraband" in the entire U.S.A., pursuant to the expressed "will"
17 of Congress; under the provisions of 19 U.S.C. §1305(a), and *U.S. v. 37 Photographs*, 402 U.S. 363
18 at headnote 12 and pages 376-377; and that the unlawful profits derived from such broadcasts are
19 "contraband which is subject to a legal forfeiture proceeding and the imposition of an equitable
20 "Constructive Trust". Computerized Time and Motion Studies of such films are submitted as
21 Appendix A-1 through A-7 to this Complaint and incorporated by reference herein as though set
22 forth in full.

23 3. The present crisis involves the determination of the Videotape Pornography Industry
24 and their attorneys, and some Justices now sitting on the Federal and State benches, and others who
25 will never give up and, if necessary, will refuse to follow and apply the clear majority 5-4 rule
26 arrived at in *Paris Adult Theater I and Zz v. Slaton*. See, in this regard, the 25 page dissenting
27 opinion of Justices Brennan, Stewart and Marshall and the separate opinion of Justice Douglas in
28 *Paris Adult Theater v. Slaton* at pages 70-73. The consequence of this dissenting coalition of

1 Justices Brennan and Douglas has encouraged the corrupt C.E.O. of *A.T.&T.* and other corrupt
2 C.E.O.'s of other corporations to openly flaunt the Rule of Law laid down by a majority of the
3 Justices on the U.S. Supreme Court in the *Paris Adult Theater Z* case in order that their poorly
4 performing corporations might participate in the huge profits which regularly flow from organized
5 vice operations of this nature ("obtaining a piece of the pie"). Government attorneys have lacked
6 the moral courage to enforce the Rule of Law laid down by the High Court's 5-4 majority. As a
7 result, the Federal and State Morality Statutes have fallen into desuetude ^{1/}, and are not being
8 enforced.

9 4. That, heretofore, no one has challenged the bold assertion in Justice Brennan's 1973
10 dissent in *Paris Adult Theater* that under the **U.S. Constitution**, the members of the U.S. Supreme
11 Court have the power to thwart the "will" of Congress, which has declared that "per se obscenity"
12 is "contraband" in the U.S.A., and can be seized as such and destroyed, and its profits traced and
13 forfeited in a legal action pursuant to the equitable doctrine of "**Constructive Trusts**".

14 5. That Justice Brennan's 25 page dissent in *Paris Adult Theater Z v. Slaton* is
15 outrageous; not because he wrote it, but because of the devastating effect and result of his
16 "improper" dissent, and the fact that no one has challenged his right to do so in the context of the
17 facts of record in the *Paris Adult Theater I and II* litigation. Both of those cases were before the
18 Georgia Supreme Court in a civil public nuisance context. where the Georgia Supreme Court had
19 ruled unanimously on the matter that they were hard-core pornography under Georgia State Law.
20 Further, Justice Brennan had viewed both films which were exhibited in the case: "*It Always Comes*
21 *Out In The End*" and "MagicMirror", which are, in fact rank pornography, which fact is confirmed
22 by the **Time and Motion Study** in Declarant/ Petitioner's Amicus **Curiae** Brief, which was filed
23 in that case. See copy of this Declarant's Amicus Curiae Brief in *Pans Adult Theater Z*, supra, at
24
25
26

27
28 ^{1/} Desuetude. Disuse; cessation, or discontinuance of use;-especially in the phrase, "to fall into
desuetude." Applied to obsolete statutes, *James v. Comm.*, 12 Serg. & R. (Pa.) 227.

1 **Exhibit 1** to this Complaint (5 Pleadings in the U.S. Supreme Court) at **Appendix F-1** ^{2/}.

2 6. That Petitioned Declarant's action in this Los Angeles County Superior Court, **seeks**
3 to abate as moral public nuisances the above broadcast films (and 118 others), which are "*per se*
4 obscene" (hard-core pornography) and "contraband", and were broadcast during the three month
5 period from January 27th thru April 30, 2001 on *A. T. & T.* Cable Channel 96 (analogue); and a Partial
6 Summary Judgment on the Pleadings to that effect; and the forfeiture of said films and the moneys
7 billed by *A. T. & T.* to customers of *A. T. & T.*'s "In Demand, Pay Per View, Adults Only" Service as
8 'Contraband' under *U.S. v. 37 Photographs*; supra, and costs, including attorney fees against
9 ***A. T. & T. Corporation*** pursuant to **C.C.P. 51021.5**, for services rendered in bringing this lawsuit.

10 7. That Petitioned Declarant is moving this Court for a specifically crafted "Emergency"
11 Rule Nisi ^{3/}, in relation to the "Autoptic Preferences" which are before the Court, so that Petitioner
12 may have the benefit of the plenary decision of this Trial Court, that the 5-4 Decision in ***Puns Adult***

13
14 ^{2/} Had the new "computerized Time and Motion Studies (Appendix A-1 through A-7 to this
15 Complaint) been available for submission at the time of the ***Paris Adult Theater I*** case, Associate Justice Brennan
16 would never have filed the dissenting opinion which he authorized in that case. See, in this regard, the Motion of
17 Charles H. Keating, Jr., for leave to file an *Amicus Curiae* Brief at pages 1-6 of Appendix F-1 to Exhibit 1 to this
18 Complaint (5 Pleadings in the U.S. Supreme Comt), which focused upon the very significant distinguishing issue: the
19 District Attorney had uroceeded against the "**culpable party**" in a "civil action" (not a criminal prosecution).

17
18 ^{3/} ***Proposed "Emergency" Rule Nisi***

19 The Petition of James J. Clancy for a Rule *Nisi* Order to Show Cause and Writ of Mandamus is
20 granted. Probable Jurisdiction is noted." (See Appendix A-1 through A-7 to this Complaint)

21 Within 40 days after service of this Order, Respondent ***A. T. & T. Corp.*** shall file a written response
22 in this Court and show cause why the three films: '*101 Cheerleaders and I Jock*' and '*Hell on Heels*' and
23 '*More Than A Handful 9*', and 'pandering' previews, which are named in the Petition, are entitled to **First**
24 Amendment protection and should not be barred from broadcasting on *A. T. & T.*'s 'In Demand, Pay For View,
25 Adults Only' Cable Broadcast on Channels 96 and 457 and 459, as being in violation of Federal Law, and
26 Contraband, and contrary to the Rules of Law expressed in ***Paris Adult Theatre I. et al. v. Slaton***, 413 U.S.
27 49, 37 L.Ed.2d 446, 93 S.Ct. 2628 (1973); and

28 Further, within five (5) days after service of this Order, Respondent ***A. T. & T. Corp.***, shall inform
Petitioner in writing. the names of the titles of any 10 additional motion picture videotapes from the list of 121
titles named in Petitioner's pleadings, which Respondent believes are also entitled to **First Amendment**
protection; and within 35 days thereafter, Petitioner shall tile with this Court computerized time and motion
studies of those 10 titles, similar to those now on file in this Court, as part of Petitioner's original pleadings."

21

28 See "**Prayer For Relief**" at page 86 for complete text of proposed Rule *Nisi*

1 *Theaterv. Slaton*, supra, is still the law in the U.S.A., notwithstanding the fact that the replacement
2 of one of the present Justices might change that result. A 5-4 majority decision is the law of the land,
3 and must presently be obeyed, and must be distinguished from the “no clear majority decisions which
4 followed in the path of the decision in *Roth-Alberts*, 354 U.S. 476 (1957), which codified the test
5 for “obscenematter”. That distinction is not being made. There is no Rule of Law which authorizes
6 the Los Angeles City and County Law Enforcement Authorities to allow a morality statute to fall into
7 desuetude (see fn.1 at page 4). This Declarant has filed this Petition for an “emergency” **Rule Nisi**
8 to respond to this “lack of law enforcement” crisis.

9 **8.** That in Petitioned Declarant’s judgment, *A.T.&T.* would never have formed a
10 business partnership with the pornography industry had it considered that, pursuant to the laws of
11 Congress (**19 U.S.C. §1305[a]**), its unlawful profits would always be vulnerable to a legal attack,
12 because there is no applicable statute of limitations to bar an equitable action which is unrecited
13 upon “contraband and the tracking of unlawful profits, as in this case).

14 **9.** Petitioned Declarant has found from his practice in the obscenity area, that one of the
15 factors which has deterred law enforcement from acting in Southern California is the fact that the
16 *Paris Adult Theater* decision is 30 years old. See Exhibit 1 to this Complaint (5 Pleadings in the
17 U.S. Supreme Court) at Appendix C-2 (at page 4 of the letter to Cardinal Roger Mahony, dated May
18 15, 2001), which mentions the fact that Alliance Defense Fund (A.D.F.) denied Petitioner’s request
19 for a Grant to defray the cost of this pro-bono attorney effort on the ground that the *Pans Adult*
20 *Theater* decision is 30 years old. As a result, Petitioner has been required to personally underwrite
21 the entire expenses of this pro-bono effort, including the cost of the comprehensive testing and
22 manufacture of a means of computerizing the Time and Motion Study and improving the quality of
23 the “autoptic preferences” (i.e., the 11 in. x 17 in. booklets and the 3 ft. x 5 ft. enlargements) to
24 arrive at a “solution” to this Court’s problem (which caused Justice Brennan to “throw in the towel”
25 in frustration). Further, by assuming those financial expenditures, Petitioner was required to delay
26 the fulfillment of other obligations, both personal and financial.

27 **10.** That Petitioned Declarant has had more than 38 years of specialized practice in the
28 area of obscenity litigation which dates back to “*The Lovers*” motion picture litigation in *Jacobelles*

1 Ohio, 378 U.S. 184(1964), October Term 1963, when Roth-Alberts, 354 U.S. 476 (1957) and
2 Rosen v. U.S., 148U.S.605 (1896) and the **1962 Model Penal Code** of the American Law Institute
3 were the preeminent constitutional references on obscenity litigation, and the “*scienter*” requirement
4 in Federal cases held that if the “actor” knew the content of the writing when the actor deposited the
5 writing in the mailbox, the “actor” had the requisite “knowledge” to satisfy the *scienter* element and
6 justify a criminal charge, if the trier of fact (i.e., Grand Jury) found the subject matter to be obscene.

7 **11.** That in the first brief Petitioner filed in the U.S. Supreme Court in December of 1963,
8 Petitioner wrote as follows in his *Amicus Curiae* Brief in Jacobellis v. Ohio; at page 2:

9 “ At its recent national convention in Chicago during October 1963, the national
10 organization of Citizens for Decent Literature adopted a policy aimed at giving increased
11 support in the fight against ‘obscenity’, through legal advocacy in the court-room in support
12 of the people’s case. Such action made possible, for the first time, the filing of the brief
13 referred to herein.

14 “ Nico Jacobellis v. State of Ohio is a motion picture film case of nationwide and
15 historical importance which will have a serious effect on enforcement of the obscenity
16 statutes throughout the nation.”

17 **12.** That Petitioned Declarant maintains that there is a lesson that can be learned from
18 a reexamination of the issues which were present in Jacobellis v. Ohio, and the mistake that occurred
19 in its resolution. This would be a different world today, had the U.S. Supreme Court in “The
20 Lovers” case simply inserted in its opinion a determination that the State of Ohio and the Ohio
21 Supreme Court had the equitable power in a civil context to order that the objectionable scene in
22 “The Lovers” depicting sexual conduct must be excised in the State of Ohio, and opine that, in that
23 event, the film, as thus corrected, would not be obscene in the Constitutional sense^{4/}, as was
24 subsequently argued in the “Motion To Affirm” in the Appeal of *A Motion Picture Entitled “Vixen”*
25 *v. Ohio ex rel. Keating*, U.S. Supreme Court No. 71-599 October Term 1971. See the copy of the
26 “Motion to Affirm” at **Exhibit 1** to this Complaint (5 Pleadings in the U.S. Supreme Court) at

27 ^{4/} This is the first step of Petitioner’s proposed solution. The States must be advised that, because of the
28 **1ST Amendment**, “Civil Process” should be employed at the outset, to avoid those inequities which Jacobellis, supra,
faced, which drove Justice Brennan to suggest an unlawful remedy which this Court does not possess; Justice Brennan
did not contemplate that, as a matter of Law under these facts, the States and Congress (and not the Court) possess the
power of designating what is or is not contraband, where subject matter is not within the **1ST Amendment** protection.
The issuance of a **Rule Nisi** in **this** civil proceeding is the first step toward the solution which Justice Brennan was
seeking.

1 **Appendix C-2** (being “Appendix F of a letter to Cardinal Roger Mahony, dated May 5, 2001)
2 which, reads as follows at pages 5-6 of “Appendix F”:

3 “So that Appellee’s analysis and contentions may be examined in proper prospective,
4 Appellee has attached hereto at Appendix F pages 2-55 for this Court’s benefit, a time-
5 motion study of ‘Lady Chatterly’s Lover’, consisting of a chronological series of
6 photographs, timed in their relative order of appearance, depicting the conduct visually
7 portrayed in the film, ‘Lady Chatterly’s Lover’ and the philosophical issues raised in that
8 case. (Kingsley International Pictures Corp. v. Board of Regents, 360 U.S. 684, 3 L.Ed2
9 1512 [June 29, 1959]). The offending conduct appears at Appendix F, photographs 636 to
10 703, 796 to 876, 1075 to 1091 and 1258 to 1297. The ‘Lady Chatterly’s Lover’ issue was
11 presented in civil litigation (involving no ‘mens rea’ issue or criminal punishment) which,
12 under one view, drew in issue the basic right of a state government to proscribe obscene
13 conduct on the public screen--the very right upon which the Ohio Supreme Court relied in
14 affirming the judgment of the Court of Appeals below. This Court should note that
15 Associate Justice Van Voorhis of the New York Court of Appeals, a dissenter in the state
16 court below, 175 N.Y. Supp.2d 60 would have solved the ‘thought control’ problem, which
17 bothered Justice Stewart by holding at 175 N.Y. Supp.2d at 60:

11 “ . . . certain passages might have been eliminated as ‘obscene’ without doing
12 violence to constitutional liberties. In their endeavor to censor morality, both the
13 Motion Picture Division and the Regents seem to have overlooked their power to
14 exclude ‘obscenity’ which includes the portrayal on the public screen of sexual
15 intimacies *whether they be marital or extramarital* . . .’ (Our emphasis.)”

14 “Appellee submits that had this Court’s opinion in the ‘Lady Chatterly’s Lover’ case
15 recognized the principle urged by Justice Van Voorhis and relied upon by the Ohio Supreme
16 Court below, Appellant Russ Meyer would never have been seduced into gambling on his
17 ‘Immoral Mr. Teas’, ‘Lorna’, etc. (see here the testimony of defense witness Arthur Knight
18 appearing at Appendix C pages 2-72) and ‘Vixen’ and its progeny would never have
19 appeared as a plague on the American Courtroom scene.”

18 See, also, in this regard the action taken by the Georgia Supreme Court in *Evans Theater Corn v.*
19 *Slaton*, 227 GA 377 (Mar. 4, 1971) as to the film “*I Am Curious (Yellow)*”. See Exhibit 1 to this
20 Complaint (5 Pleadings in the U.S. Supreme Court) at Appendix F-2, and “Reason for Granting
21 the Writ” at (1) on pages 22-28. In the 1970’s, the entire thrust of Petitioner’s out of state attorney
22 employment contract with Atlanta, Georgia, was that the civil process (moral public nuisance
23 statutes) and not the criminal process, should be used, together with the Time and Motion Study
24 autoptic preferences ^{5/}.

24 13. That in his practice over the years, in determinating what is obscene, Petitioned
25 Declarant has developed two “procedures” for use in lawsuits involving the abatement of obscene

26 ^{5/} See pages 13-14 of Petitioner’s 14 page “Memorandum” to John Harmer, dated November 12, 1978,
27 at **Appendix F-2** to **Exhibit 1** to this Complaint (5 Pleadings in the U.S. Supreme Court).

1 notion picture films as public nuisances: (A) A **Time and Motion Study** (Analysis), and (B) A
2 **Continuity.**

3 **14.** That these procedures were an absolute necessity twenty year ago under the
4 U.S. Supreme Court's restrictive rulings on "search warrants", "*subpoena duces tecum*", and
5 'adversary hearings', which made it impossible to "prove" a case where the necessary "positive
6 print" was not, and could not be brought before the trial court at the hearing. That problem no longer
7 exists today. A camcorder can record that which appears on the screen, and Petitioned Declarant's
8 computerized **Time and Motion Study**, with each "frame" electronically numbered, can, as in this
9 case, place the film on the Court's docket within a few days, ready for trial on the merits by
10 screening the computerized film at a frame-by-frame advance (at a consolidated hearing of the
11 preliminary and final injunction).

12 **15.** That the "slow motion" "still" study of the **Time and Motion Study** analysis slows
13 the pictorial projection and "stays" the action to a "still photograph" taken every 4 seconds. The
14 slow motion study is presented to the Court in the format of what the legal profession refers to and
15 recognizes as an "Autoptic Preference". Associate Justice Potter Stewart gave that legal term further
16 definition when he wrote in his incredibly short opinion in *Jacobellis v. Ohio*, 378 U.S. 184 (1964):

17 ". . . . I shall not today attempt further to define the kinds of material I understand to be
18 embraced within that shorthand description; and perhaps I could never succeed in intelligibly
19 doing so. But I know it when I see it, and the motion picture involved in this case is not
that." (My emphasis.)

20 See a copy of Justice Potter Stewart's dissent at **Appendix F-3 to Exhibit 1** to this Complaint
21 (5 Pleadings in the U.S. Supreme Court). In this case, the four videotapes under examination "are"
22 just that: *per se* hardcore pornography.

23 **16.** Because its evidentiary value depends upon what is "seen", the "autoptic preferences"
24 are admissible both in the pleadings and at the actual trial without the need for any support testimony
25 other than the information as to where and how it was produced. As such, it has been pleaded and
26 incorporated in this Petition for what it documents: a chronological exposure of a continuing
27 commission of the **Common Law** crimes known as "a lewd exposure of the private parts" and a "*per*
28 *se*" moral public nuisance, which a Judeo-Christian Society has a duty to abate under the "Natura

1 law” (i.e., that which is “written upon” our conscience as our guiding light)

2 17. That the “continuity” device on the other hand contains a record of what is said, with
3 such additional editorial comments as may be necessary to explain what is occurring. It is important
4 to note that in the case of the above films which are identified by name, there is either no “dialogue”.
5 or virtually no “dialogue!” which is a common occurrence in all “hard-core pornographic films”.

6 What is said in “*More Than A Handful 9*” by Pornographer Ron Jeremy, is his editorial comment,
7 as a “Player”, on the visual depictions of lewd displays of the “private parts” which appear thereafter,
8 which are common law crimes and moral public nuisances. Declarant submits that a State trial court
9 can order that each lewd display of the “private parts” be excised, as a **9TH and 10TH Amendment**
10 right under Justice Harlan’s concurring view in *Roth-Alberts*, supra.

11 18. That the pornographer’s film editor who prepared the master print of the film “*More*
12 *Than A Handful 9*’ (*A.T.&T.* version, which has a playing time of 72 minutes), used a total of
13 129,600 “picture frames” (30 frames per second (of the camera’s operation) x 60 seconds x 72
14 minutes = 129,600) to finalize the pornographer’s production. The “computerized Time and
15 Motion Study” of the A.T.&T. broadcast on October 2, 2001, which was recorded by Petitioner on
16 a VHS videotape for law enforcement purposes, reverses that process⁶¹. The VHS videotape was
17 thereafter subjected to the computerized process in which each one of the 129,600 “picture frames”.
18 used by the Industry, was “time stamped” by the computer. The computer then “captured a “time
19 stamped photograph (frame) at four second intervals (from among the 120 [camera] frames that are
20 exposed in 4 seconds [4x30=120]) and arranged them in the sequence which is shown on the
21 20 pages of the 11 in. x 17 in. Autoptic Proferences. The end result is a “slowed” motion depiction
22 of the visual aspect of the study. The legend at the bottom of each page is The “editorial account”
23 by the reviewer of the video tape who has also heard the audio portion. The “audio” portion of
24 “*More Than A Handful 9*” is minimal, being the editorial comments of Ron Jeremy as an observer

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1 and a “Player-participator” in the pornography video.

2 **19.** That in the next step of the computerization process, the computer operator prepares
3 DVD disc copies (parts 1-2) of the “timed” version of the 129,600 frames within the computer for
4 its use with a DVD Player in the Courtroom which, thereafter, has the capacity of playing the “timed
5 tape” at slow motion or in the “frame by frame” advance mode at the trial. From the DVD discs, a
6 video tape COPY of the same is made, and the same frame-by-frame procedure can be followed using
7 the video tape copy of the “timed version.

8 **20.** That in the study of the **A.T.&T.** broadcast of its “pandering” Previews, it was noted
9 that the pornographer’s film editor inserted “subliminal frames”, 1/30 of a second (not visible to the
10 viewer), depicting females in lewd poses within that part of the ad previews that read “Tune In”.
11 10 single frames (1/30 of a second), and one set of double frames, were inserted in the time and
12 motion study, of the “pandering” themes (subliminal) at the following times (identified as minutes:
13 seconds. frames): 08:30:06; 08:30:07; 09:26: 11; 09:26:22; 09:26:23; 09:27:00; (09:27:01, 09:27:02
14 [double frame scene]); 09:27:03; 09:27:10; 09:27:11; and 09:27:22. See, in this regard **Exhibit 1**
15 to this Complaint (5 Pleadings in the U.S. Supreme Court) at **Appendix E-5**; and at **Appendix A-5**
16 to this Complaint (8.5 in. x 11 in. format), the single page regarding “subliminal frames”, and the
17 **Time and Motion Studies** of the “pandering” **Previews After** the broadcast of **“More Than A**
18 **Handful 9’ (A.T.&T. version)**. This Court can locate those single and double frames by inserting
19 the videotape in the “Player” and fast forwarding and “pausing” the player at the “Tune In”
20 advertisement at 08:30:03, and then using the “frame by frame” and the “advance” or “reverse” mode
21 to locate the time for the 10 single frames (1/30 of a second), and one set of double frames “which
22 are (identified as minutes: seconds: frames): 08:30:06; 08:30:07; 09:26: 11; 09:26:22; 09:26:23;
23 09:27:00; (09:27:01, 09:27:02 [double frame scene]); 09:27:03; 09:27:10; 09:27:11; and 09:27:22
24 of the “pandering” previews.

25 **21.** It is equally as easy to locate any single frames that are not “lewd” under the “*Sir*
26 *Charles Sedley*” taboo, infra. See, in this regard, the single page at **“Exhibit 1** to this Complaint”
27 (5 Pleadings in the U.S. Supreme Court) at **Appendix E-5**; and at **Appendix A-5** to this Complaint
28 (8.5 in. x 11 in. format), which repeats verbatim, the above instructions in paragraph 20 at page 11,

1 above, on how to locate each lewd frame, sandwiched between the frames of the “Tune In”
2 advertisement, as a “subliminal” message to his audience.

3 22. That having examined the Autoptic Preferences of the film “*More Than A*
4 *Handful 9*” in a “frame by frame” search, as noted above, it is impossible for any member of this
5 Court (including the late Associate Justice William Brennan— see his opinion in *Paris Adult*
6 *Theater Z* supra, 376 L.Ed.2d 446. at page 467, which is included at “Exhibit 1 to this Complaint”
7 5 Pleadings in the U.S. Supreme Court] at Appendix D-4) to come to any conclusion other than that
8 which is urged by Petitioner: in this Petition for a *Rule Nisi*; that is. that the film is “per se
9 obscenity” and “contraband” under Federal Standards because virtually every “frame” is a “lewd
10 display of the private parts”; and that under *U.S. v Rosen*, supra, *A.T.&T. knew* what the film editor
11 had inserted and is therefore chargeable in these civil proceedings with the knowledge that the film
12 is “obscene per se” under Federal and California Standards and is “contraband, under an Act of
13 Congress, which cannot be broadcast within the United States of America. *A.T.&T.* has no
14 immunity and is responsible in a civil lawsuit for the unlawful broadcast of an obscene videotape
15 movie in the State of California. The State of California Law Enforcement Officials must enforce
16 both the Federal Law, and the **California Business and Professions Code** sections which are at risk,
17 and seek an equitable forfeiture of the “unlawful profits”⁷¹ to arrive at the proper solution (remedy).

18 23. That in the case of “per se obscenity” there is no need to provide a “continuity”: in
19 the above three films, there is either no dialogue or, as such, virtually no dialogue. The editorial
20 content, which is set forth in the legends at the bottom of the pages, identify the films for what they
21 are; as they did in the case of “*Zt All Comes Out In The End*” and “*Magic Mirror*”, with respect to
22 the *Paris Adult Theater Z* case. Associate Justice Brennan cannot justify his dissent in *Paris Adult*
23 *Theater I*, supra, and apply his analysis to that which the State of Georgia was attempting to

24 ⁷¹ Petitioner/ Declarant contends that any City Attorney, District Attorney, U.S. Attorney, County
25 Attorney, County Council, Prosecuting Attorney, City Council, Board of Supervisors, etc., using this “procedure” and
26 the civil courts, will, with “ease”, be able to effectively remove “per se obscene” motion pictures from the airwaves
27 cable, Adult Book Store, Porno Theater, etc., immediately after broadcast or introduction on the market. Where
28 the civil action is brought to abate a moral public nuisance under the 9TH and 10TH Amendments, the unlawful profits
29 should be given to the law enforcement agency as tort “damages” and as “restitution” under the equitable Constructive
30 Trust Doctrine, to perfect the solution (remedy). Further, C.C.P. § 1021.5 is open to amendment to codify that result

1 accomplish, in filing the Paris Adult Theater civil abatement action— those actions of the State of
2 Georgia were entirely Constitutional under the 9TH and 10TH Amendments. What should be obvious
3 to this Court now, is that the Constitutional right to declare obscene matter to be “contraband” in the
4 United States resides with Congress and the Legislative bodies! This was not obvious to Justice
5 Brennan in 1973. Unfortunately, neither Chief Justice Warren Burger, nor the majority of five
6 brought it to his attention in 1973.

7 **24.** That Petitioned Declarant’s analogy is this: Petitioner in his role as a Private
8 Attorney-General is performing the same function as the Customs Official in U.S. 37 Photographs,
9 supra. This Private Attorney-General can use the civil public nuisance abatement provision, or
10 the unlawful business practices injunction process, or other equitable remedies to achieve the
11 forfeiture of the “Contraband” and the unlawful profits.

12 **25.** That in November of 1999^{8/}, as a member of the U.S. Supreme Court Bar, Petitioned
13 Declarant became concerned when he read a news article in the L.A. Times, dated September 1,
14 1999, which reported that pornography was thriving in Los Angeles and that Los Angeles Mayor
15 Reardon had informed the press that he was “ashamed of the porno industry”, but that nothing could
16 be done about it. Declarant was concerned because Mayor Reardon’s statement was at odds with
17 Declarant’s experience in 11 years of Public Nuisance Abatement litigation in Santa Ana, California,
18 with the Mitchell Brothers Theater in which, during the years 1976-1979 alone, 144 pornographic
19 films were adjudicated to be hard-core pornography and enjoined in four major lawsuits in the
20 Orange County Superior Court. In the Santa Ana litigation Declarant learned that the pornographers
21 simply could not prevail so long as a time motion study was prepared for each film which was
22 brought to trial and the litigation was tried on the merits in civil proceedings rather than criminal
23 proceedings. The Trial Judge knew that the Santa Ana City Council knew what the Judge was
24 hearing at the trial, inasmuch as each Time and Motion Study was submitted to the City Council
25 for its authorization in bringing the action. In effect, the Trial Judges were prevented from entering
26 a judgment “contrary to the law”, because the documentary evidence (autoptic proferance) in the

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2: ^{8/} See, **Exhibit 1** to this Complaint (5 Pleadings in the U.S. Supreme Court) at **Appendix A**, Declarant’s:
2: 11 page letter to William Huston, Chairman, Watson Land Co., dated November 24, 1999 (less its six Exhibits [A-F])

1 civil lawsuit acted as a “restraint” and precluded a contrary judgment, for which the trial judge,
2 .hereafter, might be held accountable at the ballot box or elsewhere!

3 **26.** That the only reason the City of Santa Ana did not ultimately prevail in the 11 years
4 of the Mitchell Brothers litigation, which challenged their exhibition of hard-core pornographic
5 films, was: (A) the refusal of the U.S. Supreme Court to rule on the “closure” issue, which the City
6 of Santa Ana twice brought before the High Court on appeal, on the question as to whether the
7 theater could be closed as a penalty for past performances in which only hard-core pornographic
8 films were being exhibited, and (B) a failure and refusal of certain members of the California
9 judiciary to award (and a corresponding willingness to strike) attorney’s fees which were granted
10 on that “quest”, **either** because the High Court would not rule on the federal closure issue, **or** the
11 Court itself, as in the case of Associate Justice Brennan, was aligned philosophically against that
12 which had been accomplished in the abatement process on Appeal. Compare, however, the result
13 reached by a unanimous State Supreme Court in Idaho ex rel. Kidwell v. U.S. Marketing, Znc., 63 1
14 P.2d 622, 102 Idaho 451 (1981), see copy of opinion at “**Exhibit 1** to this Complaint” (5 Pleadings
15 in the U.S. Supreme Court) at **Appendix D-5** (also “Exhibit C-3” to the letter to William Huston,
16 dated November 24, 1999), where the trial court’s judgment was reversed and closure for a year and
17 attorney’s fees were awarded.

18 **27.** That in support of this contention, Petitioned Declarant is lodging with the Clerk of
19 this Court as Exhibit 2 to this Complaint. a CODV of his 11 page letter to William. T. Huston. dated
20 November 24, 1999. and its “Exhibits A-F”. which document the claim. Petitioner asks this Trial
21 Court to take Judicial Notice of the content of **Exhibit 2**. The 11 page letter and its supporting
22 documents is ½” thick. It is being offered with its “Exhibits A-F” in support of Petitioner’s
23 contention that this Court now has a duty and obligation to explain to the legal profession that the
24 Paris Adult Theater principles are fully operative, by issuing a **Rule Nisi** which will make the Paris
25 Adult Theater Judgment meaningful.

26 **28.** That Declarant’s concern was also expressed in his 4 page correspondence with LOE
27 Angeles County Supervisor Mike Antonovich, dated Sept. 23,2000. Petitioner **is lodging** with the
28 Clerk of this Court, as **Exhibit 3** to this Complaint, a copy of his file and Exhibits in the Antonovich

1 inquiry (3/4" thick). As "Exhibit B" to the Antonovich letter, Petitioner enclosed a copy of eight (8)
2 Status Reports which he had addressed to the Santa Ana City Attorney during the period 1976-1986.

3 At page 3 of the letter to Antonovich, Declarant made the following observation:

4 "What I was able to accomplish . . . will establish the fact that the production of such films
5 can be stopped."

6 The Status Reports to the Santa Ana City Attorney are comprehensive and, in Declarant's judgment,
7 present ample support for his contention that the single cause for the failure of the *Mitchell*
8 *Brother's Santa Ana Theater* litigation was the failure and refusal of the U.S. Supreme Court to
9 hear the argument of the *City of Santa Ana* Petition on the "Closure" issue. Had the U.S. Supreme
10 Court as a body heard and resolved that issue, this nation would not now be faced with the
11 inundation of hard-core pornography which it is now witnessing on television in homes throughout
12 the United States of America.

13 **29.** That on May 15, 2001, Declarant addressed a seven page letter to Cardinal Mahony
14 (which refers to a 7 page letter dated November 9, 2000, to Cardinal Mahony), asking for financial
15 support in bringing this problem before a Civil Court. Copies of the files on those matters are
16 lodged as Exhibit 4 to this Petition (1 1/4" thick). Declarant enclosed in the Nov. 9, 2000 letter, a
17 copy of Timothy Egan's October 23, 2000 New York Times Article (12 pages), entitled "Wall
18 Street Meets Pornography". See copy, also, at **Exhibit 1** to this Petition (5 Pleadings in the
19 U.S. Supreme Court, at "Appendix F-4"). Declarant's letters dated November 9, 2000 and May 15,
20 2001 to Cardinal Mahony say more than this Court needs to know; nevertheless, they are being filed
21 with the Court in the expectation that this Court will take heed and, at this critical time in the history
22 of this Nation, will issue the **Rule Nisi** which this Petitioned Declarant has requested, which is a dire
23 necessity in the California State Trial Court today.

24 **30.** That thereafter, Petitioned Declarant approached newly elected L.A County District
25 Attorney Steven Cooley, with a request that a civil action be brought against **A.T.&T.** Declarant was
26 shocked by his response. as District Attorney in Los Angeles County. which is literally recognized
27 as the largest producer of hard-core pornography in the World- to the effect that the advocacy that
28 Declarant was urging had been made in the past and had not succeeded. and that now the issue would

1 be ignored as concerning a matter for “consenting” adults! See, in this regard, Petitioner/ Declarant’s
2 etter to District Attorney Cooley, dated February 12,2001, at **Appendix F-5** to “**Exhibit 1** to this
3 Complaint” (5 Pleadings in the U.S. Supreme Court).

4 **31.** That Petitioned Declarant is **lodging** a copy of the above files (**Huston [Exhibit 2]**,
5 **Antonovich [Exhibit 3]**, and **Mahony [Exhibit 4]**) with the Clerk of this Court as **Exhibits 2, 3**
6 **and 4** in support of this Complaint, with the expectation that this Court will take Judicial Notice of
7 these **Exhibits** and will interpret the issue of “Jurisdiction” and “Standing”, which is before this
8 Court, in the light of the public need, and the above correspondence, and the response of District
9 Attorney Cooley, which convinced this Petitioner that there is a grave danger that the obscenity
10 statutes and public nuisance statutes have fallen, or are about to “fall into desuetude”, with serious
11 harm to the public moral climate of the United States of America.

12 **32.** That, as a consequence of this great danger, Petitioned Declarant has also addressed
13 a copy of this Complaint, and other papers and subject matter to the Library of Congress, with a
14 request that such papers and matters, and Petitioned Declarant’s legal correspondence during the past
15 40 years be made available for the study by Historians and other members of the Bar in the legal
16 profession, who are concerned about the moral conscience of this Nation and the proliferation of
17 obscenity and other errors which has occurred during this period of our history, and the reasons for
18 such proliferation, and the very grave danger that the “Obscenity”, “Lewd exposure of the private
19 parts”, and “Moral Public Nuisance” Statutes will fall into desuetude, which would do great injury
20 to this Nation and the “taboos” of our Judeo-Christian civilization, which we as a Judeo-Christian
21 ‘People’ know must not fall in the year 2002. See, in this regard, **Man From La Mancha**” by
22 **Cervantes**, and Don Quixote’s ‘defiant challenge’: “but maddest of all, is **to** see Life as it is, and not
23 as it should be ”

24 **33.** That in Petitioned Declarant’s judgement, Associate Justice Brennan did irreparable
25 harm to the U.S. Supreme Court’s majority’s opinion in **Paris Adult Theater I**, supra, with his
26 lengthy, dissertation in dissent, which was inappropriate because it was not within the issues which
27 were framed by the Statement of Facts **and the “record” being considered upon appeal**, and which
28 withdrew his support for the obscenity statutes, and “volunteered” as an irrelevant “aside” that, since

1 there was no way that the Court could intelligently address the motion picture problem (which
2 Petitioned Declarant categorically “asserts,” in this Petition. is not true because of the recent
3 invention of the computerized **Time and Motion Study**), the High Court should override the
4 determination and “will” of Congress, and the State of Georgia, that “per se obscenity” was
5 “contraband (by precluding its determination in the Courtroom). The answer to his personal
6 bewilderment was in the record, but the persistent “determination” of the Author of Justice
7 Brennan’s opinion to **speak in dissent and ignore** the real issue, prevented any “finite” resolution
8 of the legal question which was actually before the Court in that case. Unfortunately, in Petitioned
9 Declarant’s view, Chief Justice Warren Burger’s majority opinion did not adequately “treat” Justice
10 Brennan’s dissent– it was too “gentlemanly”! As a consequence, our Judicial System is now faced
11 with a “crisis” situation.

12 **34.** That Petitioner/ Declarant had authored an *Amicus Curiae* Brief in the *Puns Adult*
13 *Theater* case, in which he pleaded a **Time and Motion Study** of both “*Zt All Comes Out In The*
14 *End’* and “*Magic Mirror*”^{9/}. The answer is and was there in a civil (not criminal) context– either
15 Justice Brennan didn’t look at the **Time and Motion Study**, or if he did, he ignored the obvious,
16 which appeared in the descriptive “Legends” (see below, *infra*), and in addition, neglected and failed
17 to consider the foundational question of whether the High Court had the Constitutional power to
18 thwart the determination and declaration of Congress, that “*per se* obscenity” is “Contraband” in the
19 United States of America! To avoid the objections to the “negative factor” of the small size of the
20 “second generation” xeroxed copy of the photographs in the time and motion study, circa 1973, the
21 photo process has been improved. and the still photos of the slow motion study are now in color. and
22 have also been enlarged 300%. from 13"x19" to 3ft x 5ft in black and white, at an expenditure of a
23 very substantial amount of time and money in the “development process” to prevent that miscarriage
24 of Justice from reoccurring. See the “computerized” **Time and Motion Study** photographs at
25 **Appendix E-1** through **E-7** to “**Exhibit 1** to this Complaint” (5 Pleadings in the U.S. Supreme
26 Court), and in the 3 ft. x 5 ft. “enlarged” photographs which have been filed with both the Clerk of

27 _____
28 ^{9/} See, copy of Brief *Amicus Curiae* at **Exhibit 1** to this Petition (5 Pleadings in the U.S. Supreme Court) at **Appendix F-1** (being “Exhibit C” to Petitioner’s letter to Cardinal Roger Mahony, dated May 15, 2001).

1 his Court and the Clerk of the U.S. Supreme Court. See also **Appendix A-1** through **A-7** to the
2 Complaint (8.5 in x 11 in. format). See again, also in this regard, the clarity of the basic “English”
3 employed in the legends for the first five pages of the **Time and Motion Study** (8.5 in. x 11 in.
4 format) of Petitioner’s *Amicus Curiae* Brief in ***Paris Adult Theater Zv. Slaton***, supra, which are a
5 representative example of the remainder of such legends, and which were before Justice William
6 Brennan. and read as follows in “plain English”.

7 “
8 ***‘Magic Mirror’***
9 (Part 1 of 15 Parts)

10 “Credits 1-2; Female 1 browsing in antique store, purchases mirror 3-34; female 1 in her Apt.
11 35-38; TV man arrives to do repair 39-55; female 1 enters her bedroom for purse and glances
12 at mirror 56-58; fade to scene, female 1 & TV man, standing nude lathering each other with
13 shave cream 63-72.

14 “
15 ***‘Magic Mirror’***
16 (Part 2 of 15 Parts)

17 “Female 1 & TV man lather each other, genitals and breasts 73-111; they fall to floor and
18 engage in sexual intercourse, female on top 113-136; female slides back and forth over his
19 body 137-144.

20 “
21 ***‘Magic Mirror’***
22 (Part 3 of 15 Parts)

23 “Female continues to slide over male 144-170; sexual intercourse, woman on top 172-194;
24 sexual intercourse, male on top 196-216.

25 “
26 ***‘Magic Mirror’***
27 (Part 4 of 15 Parts)

28 “Sexual intercourse, male on top 217-254; they grapple and roll over each other 254-276;
sexual intercourse, woman on top 277-288.

“
‘Magic Mirror’
(Part 5 of 15 Parts)

“Sexual intercourse, woman on top 289-293; sexual intercourse, man on top 295-301;
simultaneous fellatio and cunnilingus 301-319; fade out to 322; female 1 pays TV man 322-
329; female reading as doorbell rings, female 2 and female 3 anti-smut society enter 333-353,
look at mirror, 354-360.”

35. That, in Petitioned Declarant’s opinion, Chief Justice Warren Burger’s opinion for
the 5-4 majority in the ***Paris Adult Theater Z*** case was remarkably clear and simple and fully
addressed the questions which were before the Court. Unfortunately, the Chief Justice did not
recognize the “Troian Horse” which Justice Brennan’s improper minority dissent “gave birth to”
Chief Justice Warren Burger did not draw the attention of the legal profession to the subject matter
which he was reviewing. Had he merely reported what the legends described and pointed out that
this was a civil approach which did not present the problem of the criminal approach which

1 concerned Justice Brennan (see the above), he would have been able to “communicate” with that
2 segment of the U.S. Supreme Court Bar which is concerned about this problem, and thereby provide
3 “counter force” to Justice Brennan’s inexcusable, improper, unreasonable, undeserved attack in
4 1973 on the Georgia State Obscenity Statute and the record in *Paris Adult Theater I*, supra, which
5 has resulted in this “dilemma” (desuetude).

6 **36.** That, since that time, the majority of the U.S. Supreme Court has noted the need to
7 consider and address this “lack of communications” problem that the High Court has in other areas,
8 i.e., with respect to search warrants in obscenity cases. In that case, the majority attached to its
9 opinion the actual affidavits which were filed by the New York Detectives to rebut the dissenting
10 opinion’s attempt to denigrate what the Detectives had actually said in their Affidavits. See, in that
11 regard, the reference to the opinion of the U.S. Supreme Court in *New York v. P.J. Video*, 475 U.S.
12 368 (1986) 89 L.Ed2d 885-888, and Declarant’s comments in that regard, at pages 2-4 of the letter
13 dated November 9, 2000 to Cardinal Mahony, which is set forth at **Appendix C-1** to “**Exhibit 1** to
14 this Complaint (5 Pleadings in the U.S. Supreme Court) ^{10/}.

15 **37.** That Petitioned Declarant believes and contends that an emergency condition now
16 exists, which requires an immediate and plenary answer by this Court, where the moral character,
17 development, and direction of this Nation, and its governing officials, are now subject to daily
18 scrutiny on radio and television, with national and international attention, as a result of the
19 September 11, 2001 destruction of the World Trade Center Complex in New York City by Islam
20 (Muslim) International Terrorists (i.e., those of the Islamic Faith who follow the leadership of Osama
21 Bin Laden), who justify their terrorism and unprecedented acts of destruction against the United
22 States with their claim that America and its leadership (Administrative, Legislative and Judicial) is
23 corrupt, and has become an immoral Nation of People, who regularly permit others to engage in
24 corrupt and immoral practices for America’s own financial and personal gain. See and compare, in

25
26 ^{10/} It does not take a “rocket scientist” to comprehend that the “scandal-giving” nature of *A.T.&T.’s*
27 broadcast of hardcore pornography on Channel 457 and 459 is counter-productive of the law enforcement efforts to
28 change the “thinking pattern” of the gangs in the San Fernando Valley. See copy of the *Los Angeles Daily News* (front
page), dated September 16, 2002, on “**Known Gang Territories**” and its inquiry “What do you think?”, a
Appendix A-8 to this Complaint.

1 this regard, the “historic” account of “Sodom and Gomorrah” in the **Book of Genesis** (18:20 - 32
2 [111C]); and the nature of *A. T. & T.*’s broadcasting at Appendix E-1 through E-7 to “Exhibit 1 to
3 this Complaint” (5 Pleadings in the U.S. Supreme Court). See also, Appendix A-1 through A-7 to
4 this Complaint (8.5 in. x 11 in. format).

5 **38.** That there is an emergent need for an immediate and plenary decision by this Court
6 which upholds Petitioned Declarant’s countervailing claim that the “Giant” *A. T. & T.* Corporation’s
7 23 month unlawful business practice for the period from October, 2000 through September, 2002,
8 is really a case of (A) “sharp practice”, “corporate manipulation”, and “amoral judgments” by one
9 or more “corrupt” American “businessmen”; and (B) malfeasance by law enforcement, and (C) a
10 clear violation of the 5-4 Constitutional Rule of Law expressed by this Court in Paris Adult Theater
11 I. et al. v. Slaton, supra; and that the improper “corporate” manipulation of *A. T. & T.* and the recently
12 published statements of “Playboy” Hugh Hefner of the “Western” World, and his daughter Christie
13 Hefner, regarding the “state of the public morals” of the United States of America, are gross
14 miscalculations based upon corporate mismanagement. as a matter of law; and

15 **39.** That to permit the perverse commercial degradation of women that is being tolerated
16 by Los Angeles Law Enforcement, in “*101 Cheerleaders & 1 Jock*”, “*More Than A Handful 9*”,
17 and “*Hell On Heels*”, where Playboy of the “Western World” Hugh Hefner and his daughter
18 Christie’s “Designated Mistress of Ceremonies” for his new “hard-core pornographic” T.V. venture,
19 Jenna Jameson (a female “porn star”) inserts what appears to be a long dagger into the vagina of
20 another female in “dildo” fashion, (see “*Hell On Heels*” at times: 01:08:00:00 through 01:09:16:00),
21 and subjects herself to the same abuse (see “*Hell On Heels*” at times: 01:06:00:00-01:06:56:00),
22 is sheer madness. See the Internet news accounts of this Playboy development for June 30 and
23 July 3, 2001 at Appendix F-6 to “Exhibit 1 to this Complaint” (5 Pleadings in the U.S. Supreme
24 Court). Our **Common Law** and Lord Blackstone spoke of such conduct as “crimes” and “taboos”
25 which civilized people would not discuss or refer to by name, because the “thought and discussion
26 of such an evil” was, itself, so destructive to the “Common Good”; and

27 **40.** That Petitioned Declarant’s “Autoptic Preferences” of the above films, in the form
28 of 11 in. x 17 in. and 3 ft. x 5 ft. computerized slow motion studies of still photographs taken every

1 4 seconds, which are pleaded by incorporation in this Petition at **Appendix A-1** through A-7, provide
2 irrefutable proof that such films are hard-core pornography, and “*perse* obscenity”, and moral public
3 nuisances, and “contraband by Act of Congress, as a matter of law which mandates an immediate
4 and plenary decision and Partial Summary Judgment on the Pleadings by this Court in the Year 2002,
5 in Support of Petitioner’s proposition; that *Paris Adult Theater et al.*, supra, has been, and is still
6 the “unmistakable” law of the land, and that as a Historical Fact, the United States of America is a
7 Nation which is rooted in Judeo-Christian ethics, and abhors both: (A) hard-core pornography, and
8 (B) “*perse*” indecent sexual conduct; and

9 41. That the 11 in. x 17 in. and 3 ft. x 5 ft. computerized “process”, in the nature of a
10 “Slow Motion” study of “still” photographs, taken every four seconds, of four videotapes: “*101*
11 *Cheerleaders & 1 Jock*”, “*Hell on Heels*”, and “*More Than A Handful 9* (A.T.&T. broadcast
12 versions); and “*More Than A Handful 9*”, (*Cal Vista* commercial videotape version), and the
13 computer “timed” V.H.S. videotapes of the above four films, which, has been pleaded and
14 incorporated by reference, as an “Autoptic Preference”, and filed with this Petition for the Court’s
15 use in conjunction with a “Slow Motion” study of the still photographs, have demonstrated the
16 “unmistakable”, unlawful nature of such films, as “played on the “frame by frame”, “slow motion”
17 and “pause”, “forward, and “reverse”, modes of a Videotape or DVD player; and mandate the
18 issuance of a Judgment on the Pleadings (Partial Summary Judgment) as to the four videotapes
19 which have been pleaded by incorporation in this Complaint as **Appendix A-1** through **A-7** (8.5 in. x
20 11 in. format).

21 42. That the consequences of this “open rebellion” by Associate Justice Brennan which
22 is “manifested in *Paris Adult Theater Zv. Slaton*, supra, has encouraged A.T.&T. and others in
23 corporate management to “run the risk” and flaunt the Rule of Law handed down by a 5-4 majority
24 of the Justices on the U.S. Supreme Court, and has caused Law Enforcement in the Los Angeles
25 Community—including the Los Angeles County District Attorney, to refuse to enforce the law! With
26 personal firsthand knowledge that the above facts are true, this Petitioned Declarant is willing to
27 observe and suggest to this Trial Court that we as a Nation, have lost our way, i.e., “reason”, and are
28 well on the road to “Sodom and Gomorrah”; and

1 by the wrongful refusal of the Defendant California and Federal Law Enforcement Officials to
2 acknowledge that the business operations of the Defendant *A. T. & T.*, in cable-casting *malum in*
3 *e* ^{12/}, hard-core pornographic videotape films to its “In Demand” Pay TV “Adults Only” customers
4 in cable analogue Channel 96 and cable digital Channels 457 and 459 for the 23 month period from
5 October of 2000 to October 2, 2002, is an unlawful business practice and moral public nuisance
6 under the rules of law expressed by the U.S. Supreme Court in *Roth v. U.S. (Roth-Alberts)* 354 U.S.
7 476 at 485, fn. 15, 1 L.Ed.2d 1498 at 1507, fn. 15, 77 S.Ct. 1304 (1957) and *Paris Adult Theatre I,*
8 *et al. v. Slaton*, 413 U.S. 49, 37 L.Ed.2d 446, 93 S.Ct. 2628 (June 21, 1973) and by the California
9 Court of Appeals and California Supreme Court in *Peoule ex rel. Busch v. Projection Room*
10 *Theater, et al.*, 17 Cal.3d 42, 58, 130 Cal.Rptr. 328, 550 P.2d 600 (June 1, 1976) and *Peoule v.*
11 *E.W.A.P., Znc.*, 106 Cal.App.3d 315 (1980), hearing denied August 21, 1980.

12 **46.** The gravity of this inaction on the part of Federal, State and Local Law Enforcement
13 and the resulting desuetude has posed a moral dilemma which warranted and resulted in the filing
14 by this Private Attorney General-Plaintiff of a petition for an original writ of mandamus in the
15 J.S. Supreme Court ^{13/} in aid of the U.S. Supreme Court’s appellate jurisdiction under **Rule 20(1)**

17 ^{12/} Black’s Law Dictionary, rev. 4TH Ed., defines “*malum in se*” as: “**Malum in se.** A wrong in itself;
18 an act or case involving illegality from the very nature of the transaction, upon principles of natural, moral, and public
19 law. **Story**, Ag. section 346. *State v. Shedoudy*, 45 N.M. 516, 118 P.2d 280, 287”. See also, *Roth v. U.S. (Roth-*
20 *Alberts)* 354 U.S. 476 at 485, fn. 15, 1 L.Ed.2d 1498 at 1507, fn. 15, 77 S.Ct. 1304 (1957).

21 ^{13/} A copy of this Declarant’s five Pleadings in the U.S. Supreme Court is filed with the Clerk of this
22 Court as “Exhibit 1 to this Complaint”. This Court is requested to take Judicial Notice of such Pleadings and their
23 contents and arguments are incorporated in this pleading by reference as “Exhibit 1 to this Complaint”. The five
24 pleadings are designated as follows (see page 10 of the 5TH Pleading):

25 First Pleading dated 1/4/02, entitled: Ex Parte Motion for Leave to File an Oversize Petition for Writ of
26 Mandamus or Prohibition in the Form of a Rule **Nisi** Order to Show Cause; Petition for Writ
27 of Mandamus or Prohibition, and Brief in Support Thereof.

28 Second Pleading dated 3/1/02, entitled: Supplemental Motion to the Entire Court, for Leave to File a
29 Complaint: (1) requesting a Specifically Crafted Rule **Nisi** Order to Show Cause, and (2) for
30 a Final Judgment Against *A. T. & T.* on the Pleadings, re ‘Abatement of Moral Public Nuisances’
31 the Issues of ‘Desuetude’, ‘Contraband’, ‘Forfeiture of Profits from an Unlawful Business’
32 ‘Accounting’, and Presentation of an Additional Jurisdictional Question; and Complaint
33 ‘Brandeis Brief’, and **Second** Declaration in Support Thereof.

34 Third Pleading dated 4/4/02, entitled: Supplemental *Ex Parte* Motion to the Entire Court, for Leave to
35 File a Written ‘Closing Argument’ in Support of Plaintiffs’ Complaint, Pursuant to Rule 20.1

1 of the **Rules of Court** for the following reasons:

2 **A.** Ideas hateful to the prevailing climate of opinion have the full protection of the guarantees.
3 Lewdness and Obscenity, however, are treated differently, see Roth v. U.S., supra, which
4 reads at page 485, footnote 15, as follows:

5 “ All ideas having even the slightest redeeming social importance- unorthodox
6 ideas, controversial ideas, even ideas hateful to the prevailing climate of opinion-
7 have the full protection of the guarantees, unless excludable because they encroach
8 upon the limited area of more important interests.¹⁴ But implicit in the history of the
9 First Amendment is the rejection of obscenity as utterly without redeeming social
10 importance. This rejection for *that reason is mirrored in the universal judgment that
11 obscenity should be restrained, reflected in the international agreement of over
12 50 nations,¹⁵ in the obscenity laws of all of the 48 States,¹⁶ and in the 20 obscenity

13 “ ¹⁵ Agreement for the Suppression of the Circulation of Obscene
14 Publications. 37 Stat 1511; Treaties in Force 209 (US Dept State, October 31, 1956).

15 laws enacted by the Congress from 1842 to 1956.¹⁷ This is the same judgment
16 expressed by this Court in Chaplinsky v. New Hampshire, 315 US 568, 571, 572, 86
17 Led 1031, 1035, 62 S Ct 766:

18 “ ‘ . . . There are certain well-defined and narrowly limited classes of speech,
19 the prevention and punishment of which have never been thought to raise any
20 Constitutional problem. *These include the lewd and obscene It has
21 been well observed that such utterances are no essential part of any
22 exposition of ideas, and are of such slight social value as a step to truth that
23 any benefit that may be derived from them is clearly outweighed by the social
24 interest in order and morality. . . . ’ ” (Emphasis added) (My emphasis.)*

25 Requesting a Specifically Crafted Rule Nisi Order to Show Cause Regarding *A.T.&T.*'s
26 Broadcasting of Hard-core Pornography, Which Will Be Before this Court for a Decision at
27 its Conference on Friday, April 12, 2002; and Plaintiffs' **Third Declaration in Support** Thereof.

28 Fourth Pleading Dated 5/9/02 ^{3/}, Entitled: Petition for a Rehearing of the April 15, 2002 Order of this
Court, and Declaration in Support Thereof, Wherein Plaintiffs Contend That this Court and
Each of its Members Is Now on Notice, and by Virtue of the Service of this Petition on the
Defendant U.S. Attorney General and Defendant *A.T.&T.*, Is Required by the Doctrine of
Separation of Powers to Exercise its Original Jurisdiction as a Trial Court under Article 3, §2
of the U.S. Constitution to Enforce the *Malum in Se* 'Hard-core Pornography' Laws, the
'Moral Public Nuisance', 'Abatement', and 'Contraband' Laws of Congress, Which Have
Fallen into Desuetude and Will Not Be Enforced Unless this Court Takes Action as a Trial
Court in Accordance with the Law Expressed in *Ex Parte United States*, 287 U.S. 241 (1932).

“^{3/} The above referred-to fourth Pleading, dated May 9, 2002, was returned to this Private Attorney
General by Deputy Clerk Francis J. Lorson, without submission to the U.S. Supreme Court, and has been made
a part of the text of this Amended Complaint. A copy of said Pleading is attached at the end of this 'Amended
Complaint' and made a part thereof.”

- 1 B. Each of the videotapes and films which were cable-casted by *A.T.&T.* during the period from
2 October 2000 through October 2, 2002 involves “*malum in se*” public conduct and
3 constitutes *malum in se (per se)* hard-core pornography under State Law, Federal Law, and
4 International Treaty, in that reasonable minds would not differ. and all reasonable persons
5 would so hold.
- 6 C. As a result of such wrongful, continuous inaction on the part of the Defendant Los
7 Angeles City and County Law Enforcement Officers for the past two years, *Playboy*
8 *Enterprises, Znc.*, on June 30, 2001, has stepped into the breach(the vacuum which has been
9 created) and publicly announced that it has exercised its option (acquired two years earlier)
10 to purchase the three fastest growing XX-rated television channels (“Vivid T.V.”, “*The Hot*
11 *Network*”, and “*The Hot Zone*”) from Van Nuys, California-based *Vivid Video* for three
12 times the purchase price such network was offered at the time the option was acquired by
13 *Playboy.*
- 14 D. In two news articles appearing in the June 30 and July 3, 2001 editions of the Los Angeles
15 Times (see copies at “Appendix F-6” to the first Pleading (January 4, 2002) in the
16 U.S. Supreme Court, a copy of which is filed with the Clerk of this Court as “Exhibit 1 to
17 this Complaint”, and incorporated by reference herein), *Playboy* Chief Executive *Christie*
18 *Hefner* stated that the deal with *A.T.&T.* and the three Porn Networks, “positions” *Playboy*
19 *Enterprises* as “the leading supplier of a range of adult entertainment”. Additionally, Jim
20 English, President of the Beverly Hills-based *Playboy* Television Network, also publicly
21 reported: (1) that two of the “Vivid” channels will be renamed “Spice Hot” and “Spice
22 Zone”, and that the more graphic “Vivid T.V.” will be renamed “Spice Platinum Live”; and
23 (2) that the new live format will be hosted by Jenna Jamison, a leading porno star. who is
24 under contract with “Vivid”.
- 25 E. Jenna Jamison is the “*Vivid Video*” porn star of the *malum in se*, hard-core pornographic
26 video “*Hell On Heels*”, which was cable-cast by *A.T.&T.* on February 14, March 4 and 5,
27 2001, April 15, 2002, etc. Plaintiffs computerized **Time** and Motion Study analysis of
28 “*Hell On Heels*”, which was pleaded by incorporation in the first Pleading in the Petition for

1 Writ of Mandamus to the U.S. Supreme Court at “pages 18-19” to “Appendix E-2” of
2 “**Exhibit 1** to this Complaint”, reveals that, as the porn star of “*Hell On Heels*”, Jenna
3 Jamison, the proposed “Host” for the new *Playboy* format, engaged in an incredible display
4 of hard-core pornographic conduct, which included a female actress’ insertion of what
5 appears to be a long dagger into the vagina of Jenna Jameson, using it as a dildo. See
6 “page 18” to “Appendix E-2” of “**Exhibit 1** to this Complaint”, at the timed “captured
7 photos” 1:05:24 through 1:07:00. Further, the “Star” and *Playboy*’s future “Host”, Jenna
8 Jamison, acted, in turn, by reciprocating such “indecent” sexual conduct, inserting the same
9 dagger into the vagina of the female actress. See also, at “page 19” to “Appendix E-2” of
10 “**Exhibit 1** to this Complaint”, the timed “captured photos” 1:07:16 through 1:09:16. See
11 again, also, page 19 to **Appendix A-2** to this Complaint (8.5 in. x 11 in. format).

12 . The videotape of “*Hell On Heels*” and the “dagger sequence” noted above was specifically
13 brought to the attention of Los Angeles County Law Enforcement Officials, who refused to
14 proceed against the cable-casting in civil proceedings, as requested by Plaintiff, on the
15 grounds that the transmission and reception of such hard-core pornography was “excused”
16 because it was authorized by “consenting adults”. See a copy of Sheriff Lee Baca’s letter,
17 dated March 28, 2001, at “Appendix F-7” to “**Exhibit 1** to this Complaint” (5 Pleadings in
18 the U.S. Supreme Court), and at paragraph 85 on page 60, *infra*, rejecting Plaintiffs request
19 for a civil lawsuit by Los Angeles County Law Enforcement. See also, at “Appendix F-8”
20 of “**Exhibit 1** to this Complaint”, Plaintiffs *Declaration*, dated February 20, 2001, which
21 was filed with the Los Angeles County Board of Supervisors on that same date.

22 3. Plaintiff requests this Trial Court to take Judicial Notice of the Los Angeles Times news
23 report, dated Thursday, July 19, 2001, entitled, “**Pornography Is Spreading Its Tentacles**
24 **Through Society**” and “**The Combination of Pornograahv and Wireless Devices Comes**
25 **at a Time When Both Industries Are Searching for Innovative Ways to Expand Their**
26 **Markets**”. See the copy of this article at **Appendix F-9** of “**Exhibit 1** to this Complaint”
27 (5 Pleadings in the U.S. Supreme Court).

28 47. Plaintiff alleges that, contrary to the contentions of said Los Angeles County Law