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## D.C. jurors to apply obscenity test to porn mogul's operation

**Examiner Staff Writer**  
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An obscenity trial against pornography bigwig John Stagliano and his business opens Tuesday in a case with sweeping First Amendment implications that could significantly alter the \$10 billion adult entertainment industry.

Stagliano, the porn mogul better known as Buttman, faces 32 years in prison. He and his company, Evil Angel, also face \$7 million in fines for making fetish films with titles unfit to print in a family newspaper and selling them through the mail and over the Internet.

Stagliano started a Web site, DefendOurPorn.org, and said he is defending the right to free speech. If convicted, he has vowed to take the battle to the U.S. Supreme Court.

David Hudson, of the First Amendment Center in Nashville, Tenn., said the trial deals with community standards for obscenity in the age of the World Wide Web.

"This case has potential to be a significant case, known more than for its well-known defendant," Hudson said. The case is also unusual because Stagliano isn't considered to be on the far fringe of the porn industry, he said.

The trial is being held in Washington because the District is the home of the Department of Justice's anti-obscenity task force. Task force investigators purchased two videos through the mail and watched a trailer for another over the Internet.

D.C. jurors will be asked to watch two videos and a trailer to determine if the movies are outside the community's standards of what is obscene, "kind of a jury-based movie review," said Jamin Raskin, of American University's law school.

"The jury becomes a little focus group on how shocked, scandalized and grossed out people are," Raskin said.

The Supreme Court has wrestled with the question of obscenity for decades, a point made famously by former Justice Potter Stewart, who said he couldn't define obscenity, but he knew it when he saw it. At one time, the standard for obscenity was whether the movie had artistic, political or cultural merit -- so

porn actors would end the movie by standing up and lecturing about the First Amendment, Raskin said.

Playboy and Penthouse were once out of the norm; today they're considered by many to be acceptable, he said.

In 1973, the Supreme Court came up with the Miller test, which allowed for community standards, rather than national standards. What offended the average person in one part of the country may not offend that average person in another.

"The courts invite a kaleidoscopic crash of cultural, artistic and moral values," Raskin said.

Stagliano, a significant financial contributor to libertarian think tanks the Cato Institute and the Reason Foundation, plans to challenge the constitutionality of community standards. The 1973 ruling was made when porn movies were viewed only in theaters. Stagliano says it doesn't make sense in the age of the Internet.

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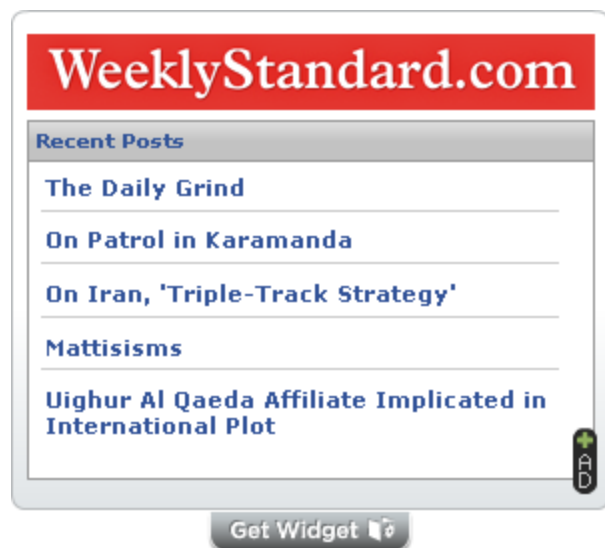


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