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Tom Freeman Quoted On Measure B's Constitutionality in National Law Journal

A brief filed by Bird Marella was quoted in the article, "A Condom Conundrum" published by National Law Journal. Principals Tom Freeman and Mitch Kamin represent the proponents of Measure B, which imposes regulations on the porn industry in Los Angeles County, specifically requiring that performers wear condoms when filming to protect against sexually-transmitted infections. Vivid Entertainment LLC is seeking to enjoin enforcement of Measure B, contending that wearing a condom will interfere with the company's and performers' freedom of expression. The district court upheld Measure B's central provision requiring the use of condoms. That ruling is being attacked before the Ninth Circuit Court of Appeals. Los Angeles County has chosen to take no position in the case, leaving it to the ballot proponents to defend the measure. That raises an issue not addressed by the Supreme Court in Hollingsworth v. Perry, where the proponents of California's proposition 8 were found not to have standing to appeal from the district court's determination that the measure was unconstitutional. In this case, the proponents are not appealing – they are defending the district court's ruling. The appeal therefore raises questions as to who can defend future propositions and measures and under what circumstances may they do so, as well as how far the First Amendment goes in protecting the free speech rights of porn producers and performers. The firm's brief on behalf of the proponents states, "While Measure B requires performers to wear condoms, it does not require filmmakers to depict the use of condoms." Read full article.