

THE HONORABLE JAMES P. DONOHUE

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

CHIHULY, INC., a Washington corporation  
and PORTLAND PRESS, INC., a Washington  
corporation,

Plaintiffs,

v.

ROBERT KAINDL, an individual; BRYAN  
RUBINO, individually and on behalf of his  
marital community; ART GLASS  
PRODUCTION, a Washington company; et al,

Defendants.

ROBERT KAINDL, an individual; and ART  
GLASS PRODUCTION, a Washington  
company,

Counter-Claimants,

v.

CHIHULY, INC., a Washington corporation;  
PORTLAND PRESS, INC., a Washington  
corporation; and DALE CHIHULY, an  
individual,

Counter-Defendants.

NO. C05-1801-JPD

DECLARATION OF BILLY O'NEILL IN  
SUPPORT OF PLAINTIFFS' AND  
COUNTER-DEFENDANTS' MOTION  
FOR PROTECTIVE ORDER

Note on Motion Calendar:  
July 20, 2006

Oral Argument Requested

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1 I, BILLY O'NEILL, declare as follows:  
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3 1. I am the Studio Manager for Chihuly, Inc. ("Chihuly") and Portland Press, Inc.  
4 ("PPI") (collectively, the "Companies"). I make this declaration based on personal knowledge  
5 and am competent to testify to its contents.  
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9 2. I have worked for the Companies for five years. In my capacity as Studio  
10 Manager, I oversee every aspect of production and implementation of studio projects, including  
11 design, fabrication, installation, scheduling, personnel, marketing, and sales. I am generally  
12 familiar with the business operations of Chihuly and PPI.  
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17 3. Chihuly and PPI are private companies and not publicly owned or traded. Both  
18 support the creation, production, sale, and installation of the works of Dale Chihuly. Chihuly,  
19 Inc. incorporated in 1982 as a glassblowing studio where Mr. Chihuly could create his own  
20 blown glass sculptures and work with a collaborative team of glass blowers. PPI incorporated in  
21 1993 and is a publishing company dedicated to the production of Chihuly's studio edition glass,  
22 books, videos, DVDs, note cards, calendars, postcards and posters about Mr. Chihuly.  
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27 4. Dale Chihuly is an internationally renowned glass artist with Artwork at the  
28 Metropolitan Museum of Art (New York), the Musee des Arts Decoratifs, Palais du Louvre  
29 (Paris), and the Victoria and Albert Museum (London), along with exhibitions such as *Chihuly*  
30 *Over Venice* (Venice, Italy), *Chihuly in the Light of Jerusalem* (Israel), *Chihuly Bridge of Glass*  
31 (Tacoma, U.S.) and *Gardens of Glass: Chihuly at Kew* (United Kingdom). Over the past forty  
32 years, Mr. Chihuly's stylistically daring sculptures in glass have pushed conventional boundaries  
33 and understanding of color, line and assemblage, creating a demand for his works and  
34 information regarding his art, the studio, Dale Chihuly himself and his business.  
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39 5. The Companies' business is to support Dale Chihuly and his Artwork and, as  
40 such, all information regarding Mr. Chihuly and the business of Chihuly and PPI is maintained  
41 as strictly confidential. His celebrity status results in intense scrutiny and has resulted in some  
42 unique measures to protect Mr. Chihuly's privacy and to ensure the confidentiality of the  
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1 business operations. Thus for example, unlike most other businesses, there is no signage on the  
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3 business locations and we do not publicly advertise our address on our websites. Access to our  
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5 facilities is controlled by security pads and access codes. In addition, all employees are required  
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7 to sign confidentiality agreements so as to further protect the business of the Companies; the  
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9 Artwork of the Companies; information about business associates, collectors and employees of  
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11 the Companies; former, present and future clients of the companies; and specifically any  
12  
13 personal information relating to Dale Chihuly, his family and extended family, friends and  
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15 associates. In a further effort to ensure confidentiality, employees are given unique log-ons and  
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17 passwords to access the secure computer network at Chihuly, Inc. Visitors to the main offices of  
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19 Chihuly, Inc. must sign in with the front desk before entering the premises, may only visit during  
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21 certain hours, and their access is limited based on their role and relationship with the company  
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23 and agreement to treat information as confidential. All clients who are under contract for  
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25 purchasing, exhibiting or receiving loaned Artwork are under agreements to honor the  
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27 confidentiality of the contract terms with Chihuly, including all information related to the sale,  
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29 including design elements, pricing structure, the value of the work, and the installation process.

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31 6. Disclosure of non-public information regarding Mr. Chihuly or the Companies  
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33 would result in significant harm. First and foremost, as a celebrity, Mr. Chihuly's personal  
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35 privacy is extremely important to preserving a normal family life, ensuring his good health and  
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37 ensuring his ability to produce further Artworks. Mr. Chihuly's interests are clearly aligned with  
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39 those of the Companies. In addition, information regarding Mr. Chihuly and his work is the very  
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41 business of the Companies and widespread disclosure of such information could not only affect  
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43 the market for information about Mr. Chihuly but would distract attention away from the core  
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45 business as we seek to respond to inquiries from the press, our galleries, collectors and others.

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47 7. With specific reference to particular types of information, I would advise as  
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49 follows:  
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1 a. **Financial.** The financial information of Chihuly and PPI including all revenue,  
2 expense, cost, profit and loss information is maintained as confidential. Accounting functions  
3 are conducted from a private office that locks. Financial information is stored in locked file  
4 cabinets and marked with an in-house confidentiality designation. Financial information is  
5 shared only with employees of Chihuly and PPI on a need-to-know basis, such as upper-level  
6 employees or board members, and is not disseminated to employees generally. We routinely  
7 decline press and other inquiries regarding financial and other business information. Disclosure  
8 of financial information regarding Mr. Chihuly or the Companies' profit and loss is sensitive and  
9 personal information. Disclosure of information regarding company operations such as the  
10 actual pricing, discounts and commissions, or the price or cost of various expenses or inputs,  
11 such as supplies, salaries, rents and similar information would put us at a disadvantage if made  
12 publicly available, including to potential clients or to other artists.

13 b. **Marketing and Sales.** Communications regarding internal business operations  
14 are conducted only between employees with a need to know, and not shared with other  
15 employees. Marketing and advertising decisions related to upcoming exhibitions and sales are  
16 decided at meetings where only employees attend who bring a particular role or function to the  
17 decision and have a need to be involved. Disclosure of marketing and sales information  
18 including information related to sales and marketing techniques or from which information such  
19 as client preferences regarding designs, colors or similar information could be derived would put  
20 us at a competitive disadvantage if disclosed to the public. Similarly, information regarding our  
21 actual or prospective clients, including their preferences and other information could be harmful  
22 to the Companies if made available to others.

23 c. **Operations.** The business operations of Chihuly, Inc. and Portland Press, Inc.  
24 are unique and known for sophistication and expertise in managing one of the world's largest and  
25 most well-known handblown glass Studios. From our processes of designing, selecting and  
26 blowing innovative, critically acclaimed, award-winning new Artworks and exhibitions to the

1 logistics and functions of cataloging, packing, warehousing, shipping, installing, displaying and  
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3 deinstalling new works, our operation is unique and unparalleled. We employ many methods  
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5 and techniques that have been developed internally and are not generally known, and from which  
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7 we derive significant advantage from their not being known in significant detail. Chihuly has  
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9 invested decades and millions of dollars in developing the resources and confidential know-how  
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11 that makes it one of the world's largest and most well known hand-blown glass enterprise.

12 Disclosure of other business information—such as information regarding our suppliers,  
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14 contractors, employees, contract terms, and details regarding past, current, future or abandoned  
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16 business endeavors, projects, designs, techniques, methods or installations—could similarly  
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18 cause significant harm if disclosed .

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21 8. Dale Chihuly, Chihuly and PPI derive artistic, aesthetic, and economic value and  
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23 goodwill from keeping their artistic, business, and financial information confidential and would  
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25 be harmed if such information was disseminated to the public. Dale Chihuly, Chihuly and PPI  
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27 have invested decades and significant financial resources developing the artistic processes and  
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29 resources that contribute to the success and goodwill of Chihuly.

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31 9. This litigation has been the subject of significant press, including news articles,  
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33 radio programs, TV news, and web logs ("blogs"). For example, articles have appeared in the  
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35 New York Times, the Seattle Times, the Seattle Post-Intelligencer, the Stranger, the Puget Sound  
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37 Business Journal, on [www.antiqueweek.com](http://www.antiqueweek.com), and on the online version of the St. Petersburg  
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39 Times. I am aware that the day he filed his counterclaim, Mr. Rubino's attorney appeared on a  
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41 radio show with Dave Ross on 710 KIRO News Radio to speak about this litigation and about  
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43 Mr. Kaindl's counterclaim. In his counterclaim, Mr. Rubino filed an internal communication  
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45 from Dale Chihuly to him that related to, discussed, and included drawings of potential designs.  
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47 This communication has been widely publicized on the internet and has been quoted or posted in  
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49 its entirety on numerous websites and blogs. Mr. Rubino's disclosure of internal company  
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51 communications, when combined with his counsel's communications to the press, give rise to

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significant concern that the personal and confidential information of Mr. Chihuly and the Companies that is obtained through discovery in this matter will be disclosed to and distributed to the press or others.

I DECLARE UNDER PENALTY OF PERJURY under the laws of the United States of America that the foregoing is true and correct.

Signed at SEATTLE, Washington this 10 day of July, 2006.

  
BILLY O'NEILL

**CERTIFICATE OF SERVICE**

I hereby certify that on July 11, 2006, I electronically filed the foregoing  
DECLARATION OF BILLY O'NEILL IN SUPPORT OF PLAINTIFFS' AND COUNTER-  
DEFENDANTS' MOTION FOR PROTECTIVE ORDER with the Clerk of the Court using the  
CM/ECF system which will send notification of such filing to the following attorneys of record:

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I certify under penalty of perjury under the laws of the United States of America that the  
foregoing is true and correct.

DATED at Seattle, Washington this 11th day of July 2006.

s/ William C. Rava, WSBA # 29948  
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