

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA

MAUREEN TOFFOLONI, )  
 as Administratrix and Personal )  
 Representative of the )  
 ESTATE OF NANCY E. BENOIT, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 LFP PUBLISHING GROUP, LLC, )  
 d/b/a Hustler Magazine, )  
 MARK SAMANSKY, an Individual, )  
 and other distributors and sellers of, )  
 Hustler Magazine, as )  
 Defendants X, Y, and Z, )  
 )  
 Defendants. )

CIVIL ACTION  
FILE NO. 1:08-CV-0421-TWT

**MOTION TO STRIKE TESTIMONY OF GREGORY C. LISBY,  
OR IN THE ALTERNATIVE, TO DISQUALIFY EXPERT**

COMES NOW, Plaintiff, Maureen Toffoloni, as Administratrix and Personal Representative of the Estate of Nancy E. Benoit (“Plaintiff”), through counsel, and files this her Motion to Strike Testimony of Gregory C. Lisby, Ph.D., J.D., or in the Alternative, to Disqualify Expert with this Court as follows:

Pursuant to Rule 12(f) of the Federal Rules of Civil Procedure, a party may move to strike “any redundant, immaterial, impertinent, or scandalous matter.”

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In this case, the expert report submitted by Gregory C. Lisby, Ph.D., J.D. on behalf of Defendant LFP Publishing Group, LLC (“Defendant”) is wholly irrelevant to the matter left to be decided in this case, namely, the damages incurred by Plaintiff through Defendant’s unlawful publication of nude photographs of Nancy Benoit. As such, it is redundant, immaterial and impertinent to the matter at hand, and should therefore be stricken.

In the alternative, Plaintiff seeks to disqualify Dr. Lisby as an expert under Federal Rule of Evidence 702 and the standard espoused in *Daubert v. Merrell Dow Pharms., Inc.* 509 U.S. 579 (1993). Dr. Lisby does not use objective data or repeatable scientific methods in his report, and reached the conclusions therein based upon his own assumptions and the assumptions of others cited in his report.

In support of her Motion to Strike, or in the Alternative to Disqualify, Plaintiff files her Brief in Support of Motion to Strike, or in the Alternative to Disqualify Expert, submitted contemporaneously herewith.

Respectfully submitted July 27, 2010.

*/s/ Richard P. Decker*

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