

FILED IN CLERK'S OFFICE
U.S.D.C. - Atlanta

JUL 30 2010

JAMES M. HATTEN, Clerk
By:  Deputy Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA**

MAUREEN TOFFOLONI,
as Administrator and Personal
Representative of the ESTATE
OF NANCY E. BENOIT,

Plaintiff,

vs.

LFP PUBLISHING GROUP, LLC,
d/b/a Hustler Magazine, et al.,

Defendant.

CASE NO. 1:08-cv-00421-TWT

ORIGINAL AFFIDAVIT OF MARK SAMANSKY

Attached hereto is the original Affidavit of Mark Samansky manually filed
by Defendant LFP Publishing Group, LLC.

Respectfully submitted this 30th day of July 2010.

/s/ S. Derek Bauer
James C. Rawls
Georgia Bar No. 596050
Barry J. Armstrong
Georgia Bar No. 022055
S. Derek Bauer
Georgia Bar No. 042537
Darrell J. Solomon
Georgia Bar No. 305922

McKENNA LONG & ALDRIDGE LLP
303 Peachtree Street, NE, Suite 5300
Atlanta, Georgia 30308
(404) 527-4000
(404) 527-4198 (facsimile)

Pro hac vice:

Paul J. Cambria, Jr.
Jeffrey Reina
William M. Feigenbaum

LIPSITZ GREEN SCIME CAMBRIA
LLP
42 Delaware Avenue, Suite 120
Buffalo, New York 14202-3924
(716) 849-1333
(716) 849-1315 (facsimile)

Attorneys for LFP Publishing Group,
LLC

ATLANTA:5243059.1

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

FILED IN CLERK'S OFFICE
U.S.D.C. - Atlanta

JUL 30 2010

JAMES M. HATTEN, Clerk
By:  Deputy Clerk

MAUREEN TOFFOLONI,
as Administratrix and Personal
Representative of the ESTATE
OF NANCY E. BENOIT,

Plaintiff,

vs.

LFP PUBLISHING GROUP, LLC
d/b/a Hustler Magazine, et al.,

Defendant.

CASE NO. 1:08-CV-00421-TWT

AFFIDAVIT OF MARK SAMANSKY

STATE OF COLORADO,

COUNTY OF ADAMS.

Personally appeared before the undersigned officer duly authorized by law to administer oaths, MARK SAMANSKY, who being first duly sworn, deposed and said as follows:

1.

My name is Mark Samansky. I am over twenty-one (21) years of age and I am competent to make and give this Affidavit, and do so from personal knowledge.

2.

During the 1980's, I was employed as a radio disc jockey in Orlando, Florida.

3.

I met Nancy Benoit, then known as Nancy Daus, and her then-husband Jim Daus, at a bikini contest held in the Orlando, Florida area in the early 1980's.

4.

At the time I met Ms. Benoit and Mr. Daus, they expressed their interest in having Ms. Benoit pose for nude photographs for the purpose of selling the photographs to a gentlemen's magazine such as *Penthouse* or *Playboy*.

5.

I arranged for a modeling session and photo shoot to take place at my townhouse in Altamonte Springs, Florida. To the best of my recollection, that modeling session and photo shoot occurred approximately two weeks after I met Ms. Benoit and Mr. Daus.

6.

On the night before the modeling session and photo shoot was to occur, Ms. Benoit and Mr. Daus came to my townhouse for a "test run" to

see how Ms. Benoit would look on video. During the "test run," I took video footage of Ms. Benoit posing nude and, later in the evening, of Ms. Benoit and Mr. Daus engaged in sexual intercourse. Ms. Benoit and Mr. Daus participated in the filming of these activities knowingly, willingly, and voluntarily.

7.

The following day Ms. Benoit and Mr. Daus returned to my home for a formal modeling session and photo shoot involving a professional photographer, Christopher Helton, whom I had arranged to take photographs of Ms. Benoit nude, partially-nude, and in various outfits. Ms. Benoit and Mr. Daus also brought with them to the modeling session and photo shoot another photographer named Bill Otten. The people present during the modeling session and photo shoot were Ms. Benoit, Mr. Daus, Bill Otten, Christopher Helton and myself.

8.

During the modeling session and photo shoot, both Bill Otten and Christopher Helton took photographs of Ms. Benoit while she stripped, posed nude and in various outfits, danced, and rubbed her skin with baby oil. I took video footage of Ms. Benoit while she posed, but I did not take any still photographs.

9.

To the best of my recollection, several days after the formal modeling session and photo shoot, I met with Ms. Benoit, Mr. Daus, Bill Otten and Christopher Helton at the swimming pool of my townhouse for the purpose of viewing and sharing with Ms. Benoit and Mr. Daus copies of the photographs that Bill Otten and Christopher Helton had taken of Ms. Benoit at the modeling session and photo shoot. At that meeting, neither Ms. Benoit nor Mr. Daus expressed a desire for Bill Otten or Christopher Helton to destroy the photographs of Ms. Benoit or to destroy or surrender the negatives.

10.

Shortly after Ms. Benoit began wrestling professionally, Mr. Daus contacted me and asked me to destroy the video footage I had taken of Ms. Benoit and Mr. Daus engaging in sexual intercourse on the night before the modeling session and photo shoot. I told Mr. Daus that I would destroy the sex tape and I did destroy it immediately after he requested that I do so.

11.

At no time during the modeling session and photo shoot, at the subsequent meeting at my swimming pool or at any other time did Ms. Benoit or Mr. Daus ask me to destroy the videotape or footage I took during

the modeling session and photo shoot, nor did either of them ever express to me their desire for either Bill Otten or Christopher Helton to destroy the photographs of Ms. Benoit that they took during that session.

12.

At all relevant times I have owned and I continue to own the copyrights in the video footage I took of Ms. Benoit during the modeling session and photo shoot. For the sum of \$1000.00 I conveyed to *Hustler Magazine* the right to publish a limited set of the images from that video footage. Neither the limited set of images of Ms. Benoit I sold to *Hustler Magazine* nor any other images from the video footage of Ms. Benoit's modeling session had ever been published or their existence otherwise been made known to the general public until their publication in the March 2008 issue of *Hustler Magazine*.

[Signatures on following page]

Further affiant sayeth not.

Mark Samansky

Mark Samansky

Sworn to and subscribed before me
this 29th day of July 2010.

Nicole Furuiye
Notary Public
State of Colorado
County of Broomfield



My Comm. Exp. 08/21/2010