

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA

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

v. )

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

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. )

**PLAINTIFF’S STATEMENT OF ADDITIONAL MATERIAL FACTS**

COMES NOW, pursuant to Local Rule 56.1B(2)b, Plaintiff Maureen Toffoloni, as Administratrix and Personal Representative of the Estate of Nancy E. Benoit (“Plaintiff”), through counsel, and files this her Statement of Additional Material Facts in support of her Response to Defendant’s Motion for Summary Judgment. This Court must consider these additional material facts when ruling on Defendant’s Motion for Summary Judgment.

(1)

Neither Mr. Samanky, Mr. Otten, Mr. Helton, Defendant, nor any other party ever obtained a release from Nancy Benoit or her Estate allowing for the use of her nude image in *Hustler Magazine* or any other publication. See Deposition of James Daus, p. 18, lines 8-10, p. 42, lines 3-5.

(2)

Defendant was fully aware of the fact that it did not have a release to publish Nancy Benoit's image at the time it made the decision to publish such images. See LFP 0039, attached as Exhibit A to the Affidavit of Richard P. Decker filed contemporaneously herewith.

Respectfully submitted August 31, 2010.

/s/ Richard P. Decker

RICHARD P. DECKER

State Bar of Georgia #215600

F. EDWIN HALLMAN, JR.

State Bar of Georgia #319800

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**CERTIFICATE OF SERVICE**

This is to certify that on August 31, 2010, I have electronically filed the foregoing Statement of Additional Material Facts with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following attorney(s) of record:

James Clifton Rawls, Esq.  
S. Derek Bauer, Esq.  
Barry J. Armstrong, Esq.

Darrell Jay Solomon, Esq.  
Jeffrey F. Reina, Esq.  
Paul J. Cambria, Esq.

and by placing a copy of same in the United States Mail in a properly addressed envelope with adequate postage thereon to:

William M. Feigenbaum, Esq.  
Lipsitz, Green, Scime, Cambria, LLP  
42 Delaware Avenue, Suite 120  
Buffalo, NY 14202

*/s/ Richard P. Decker*  
\_\_\_\_\_  
RICHARD P. DECKER  
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