

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.)

AFFIDAVIT OF COUNSEL

Personally appeared before me the undersigned officer, duly authorized to administer oaths, Richard P. Decker, who, after being duly sworn, deposes and states as follows:

1. My name is Richard P. Decker.
2. I am of legal age, a resident of the State of Georgia, and the facts

set out herein are of my own personal knowledge and are true and correct.

3. I am an attorney for Hallman & Wingate, LLC, counsel of record for the Plaintiff in the above-styled matter.

4. On October 16, 2009, I served Plaintiff's First Request for Production of Documents to Defendant, LFP Publishing Group, LLC in the above-referenced case.

5. On November 30, 2009, Defendant's counsel served Defendant LFP Publishing Group, LLC's Responses to Plaintiff's First Request for Production of Documents.

6. Attached hereto as Exhibit A is a true and correct copy of an email dated July 11, 2007 from Mark Samansky labeled LFP-0039 which was produced by Defendant in response to Plaintiff's First Request for Production of Documents.


7. Attached hereto as Exhibit B is a true and correct copy of an email dated November 16, 2009 from Tyler Downey labeled LFP-0102 and LFP-0103 which was produced by Defendant in response to Plaintiff's First Request for Production of Documents.

8. Attached hereto as Exhibit C is a true and correct copy of a DVD which was produced by Defendant in response to Plaintiff's First Request for Production of Documents. The DVD was enclosed in the plastic wrapper labeled

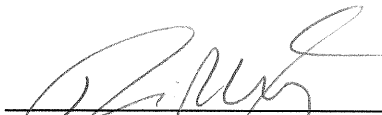
LFP-0019 which enclosed the March 2008 “For the Rest of the World” edition of Hustler Magazine.

9. This Affidavit is given so it may be used for any purpose allowed by law.

FURTHER AFFIANT SAITH NOT.


Richard P. Decker

Sworn to and subscribed before me
this 31st day of August, 2010.



Notary Public [affix seal and expiration
date]



Subject: Chris Benoit's wife

Date: Wednesday, July 11, 2007 5:06 PM

From: Mark Samansky <msamansky@comcast.net>

To: <hustler@lfp.com>

Conversation: Chris Benoit's wife

I worked in radio in Orlando in the 80's and 90's. 1985 I hosted a bikini contest in which Nancy Daus entered. Nancy told me she was interested in Penthouse, Playboy or Hustler. I organized a video shoot at my townhouse. Nancy was 21 at the time. The pic is of her and I goofing around. Right about that time Nancy got into wrestling and decided not to pursue nude modeling. I just put the tape away and forgot about it. I lost track of her in the 90's after she married Kevin Sullivan. The bit with him was that he was a devil worshipper and she fell under his spell to become a "minion."

I did not know she married Benoit until I saw the news story. She never signed any kind of release. She was married to a guy named Jim Daus at the time but divorced him shortly after. I am the sole owner of this exclusive video. 27 minutes long. It features Nancy dancing, posing, stripping, and massaging herself with baby oil. She was gorgeous then....and her skin was literally perfect. Please feel free to contact me via email or telephone. Thanks!

Mark Samansky

720-841-3433



Bauer, Derek

From: Bill Feigenbaum [wfeigenbaum@lglaw.com]
Sent: Wednesday, November 18, 2009 1:54 PM
To: Donna Hahner
Cc: Bauer, Derek
Subject: RE: Lawsuit with Wrestler's Wife

[REDACTED]

NOTICE: This e-mail message and all attachments transmitted with it are confidential, may contain legally privileged information, and is intended solely for the use of the addressee. If the reader of this message is not the intended recipient, you are hereby notified that any reading, dissemination, distribution, copying or other use of this message or its attachments is strictly prohibited. If you have received this message in error, please notify the sender immediately by phone (716) 849-1333 ext 459, or by e-mail (wfeigenbaum@lglaw.com), and delete this message, its attachments, and all copies and backups thereof.

From: Donna Hahner [mailto:dhahner@lfp.com]
Sent: Wednesday, November 18, 2009 12:37 PM
To: Bill Feigenbaum
Subject: FW: Lawsuit with Wrestler's Wife

[REDACTED]

From: Tyler Downey [mailto:tyler.m.downey@gmail.com]
Sent: Mon 11/16/2009 3:00 PM
To: Donna Hahner
Subject: Lawsuit with Wrestler's Wife

Hi Donna,

Its Tyler Downey, former editorial assistant. How are you doing? I was searching for my article online about the wrestler's wife's photos and came across how the family had sued LFP. I had no idea. [REDACTED] I did read some things about the case that struck me as odd.

I don't know if the lawyers spoke with the photographer or not, but he told me he destroyed the photos that she had asked to be destroyed. What we printed were stills from a video that he took at the same time when they were just horsing around. She had never requested that the video be destroyed because it wasn't going to be something that was submitted anywhere. There WAS a video of her and her then husband having sex that the photographer took when they were all drunk together. This was lost, if I remember. Did the family prove that she requested the VIDEO be destroyed? Could she have even make that request considering it was at the photographers house with his equipment? The photos yes, considering she took those with a specific purpose in mind with certain obligations in their creation. But can she request he destroy the tapes of people horsing around at his own house?

Whats also interesting is that her ex husband from that time called right before we ran the photos. I saw

12/16/2009

EXHIBIT B

LFP-0102

he was a witness for the family in the lawsuit. That's pretty funny because after he learned that the stills were NOT from the sex tape, he wanted to know how much money he was entitled to. When I told him he wasn't getting any money because he wasn't in the photos and they weren't his, we then discussed the possibility of buying photos and videos that HE had. So his main reason for calling was money.

I know the case is decided, but if you guys were planning on appealing maybe this stuff would be useful. Maybe not, I don't know. I know I didn't leave on the best of terms, but I would certainly help if you needed me to.

tyler

NOT FOR SALE. PROMOTIONAL USE ONLY

JUNIOR COLLEGE

Cock Crammin'



MAGAZINE BONUS DVD

Pursuant to title 18 U.S.C. §2257, this work, DVD disc art for "Junior College Cock Crammin'", was produced on 10/2/07. The date of production for "Junior College Cock Crammin'" is 4/24/05. The records required to be maintained for all regulated visual depictions of actual sexually explicit conduct contained therein are kept by S. Berrios, custodian of records at 8484 Wilshire Boulevard, Suite 900, Beverly Hills, CA 90211.

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EXHIBIT C

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CERTIFICATE OF SERVICE

This is to certify that on August 31, 2010, I have electronically filed the foregoing Affidavit of Counsel 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
State Bar of Georgia #215600

For HALLMAN & WINGATE, LLC
Attorneys for Plaintiff

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Suite 210
Marietta, Georgia 30060
(404) 588-2530