

**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

**DEFENDANT LFP PUBLISHING GROUP, LLC'S RESPONSE TO  
PLAINTIFF'S STATEMENT OF ADDITIONAL MATERIAL FACTS**

NOW COMES Defendant LFP Publishing Group, LLC, d/b/a *Hustler* Magazine, et al. ("LFP") and responds to Plaintiff's Statement of Additional Material Facts, Docket Index 160, as follows:

1. Neither Mr. Samanky [sic], 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 305.

**RESPONSE:** UNDISPUTED but immaterial. LFP admits that it published the images without obtaining a release from Ms. Benoit or her Estate but shows that it was not necessary for LFP to obtain such a release because the images were published as part of an exclusive news and entertainment story about Ms. Benoit. (LFP's Statement of Undisputed Material Facts, Docket Index 124-3, ("Facts") at ¶¶ 40-41, 63, 74-77 & 82.)

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.

**RESPONSE:** UNDISPUTED but immaterial. LFP admits that it was fully aware of the fact that it did not have a release to publish the Benoit images but shows that it was not necessary for LFP to obtain such a release because the images were published as part of an exclusive news and entertainment story about Ms. Benoit. (LFP's Statement of Undisputed Material Facts, Docket Index 124-3, ("Facts") at ¶¶ 40-41, 63, 74-77 & 82.)

Respectfully submitted this 17th day of September 2010.

/s/ S. Derek Bauer  
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**CERTIFICATE OF SERVICE**

This is to certify that I have this day filed the within and foregoing DEFENDANT LFP PUBLISHING GROUP, LLC'S RESPONSE TO PLAINTIFF'S STATEMENT OF ADDITIONAL MATERIAL FACTS via the CM/ECF system which will automatically send notification to Plaintiff's attorneys of record, who are participants in the CM/ECF system.

This 17th day of September 2010.

/s/ S. Derek Bauer  
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