

**Bauer, Derek**

---

**From:** Bauer, Derek  
**Sent:** Wednesday, December 29, 2010 10:59 AM  
**To:** 'Richard Decker'  
**Cc:** Kathryn Sims; F. Edwin Hallman, Jr.; Rawls, Jim  
**Subject:** RE: Toffoloni v LFP: draft stipulated facts

Paragraph 16 of the pre-trial requires us to work together to identify all undisputed facts. I will accept your email below as your unwillingness to do so, and reflect as much in our portion of the proposed order, which you will have in full first thing in the morning on 12/31.

Derek Bauer

---

**From:** Richard Decker [mailto:RDecker@hallmanwingate.com]  
**Sent:** Wednesday, December 29, 2010 8:30 AM  
**To:** Bauer, Derek  
**Cc:** Kathryn Sims; F. Edwin Hallman, Jr.  
**Subject:** RE: Toffoloni v LFP: draft stipulated facts

**I do not have the time or inclination to work on your proposed stipulation of "facts". Your list of "facts" was, charitably put, your arguments, speculations and a wish list of your defense. I will not help you mount a defense. I will present my case, and react appropriately when you begin to present yours. I do not need or require any stipulation of facts, and neither do the Local Rules.**

**At the risk of repetition, I will state the following one more time: The only issue in this case is the amount of compensatory and punitive damages owed to the Plaintiff by the Defendant because of the Defendant's intentional violation of the Plaintiff's right of publicity. These damages will be arrived at by presenting information to the jury as to the value to the Defendant of the appropriated images, and the Defendant's related conduct. Reviewing your proposed stipulation of "facts" and Exhibit List, it is obvious that the Defendant harbors some hopes about being able to introduce irrelevant information, which I will object to. I certainly won't stipulate to it.**

**As I said in another email, I will be out-of-town and unable to work on this project until 12/31. Please proceed to get your portion of the proposed pre-trial order ready so that I can review it in full when I get back.**  
**Richard Decker**

---

**From:** Bauer, Derek [dbauer@mckennalong.com]  
**Sent:** Tuesday, December 28, 2010 4:53 PM  
**To:** Richard Decker  
**Cc:** Rawls, Jim  
**Subject:** RE: Toffoloni v LFP: draft stipulated facts

1/3/2011

Please identify, then, which facts I have proposed which you contend are disputed and the basis in the record for your contentions. Thank you.

Derek

---

**From:** Richard Decker [mailto:RDecker@hallmanwingate.com]  
**Sent:** Tuesday, December 28, 2010 4:49 PM  
**To:** Bauer, Derek  
**Subject:** RE: Toffoloni v LFP: draft stipulated facts

**I do object to most, if not all, of your proposed stipulated facts and will not agree to any of them.**

**Richard Decker**

---

**From:** Bauer, Derek [dbauer@mckennalong.com]  
**Sent:** Tuesday, December 28, 2010 2:12 PM  
**To:** Richard Decker  
**Subject:** Toffoloni v LFP: draft stipulated facts

Rick, please see attached our draft stipulated facts for the pre-trial order. Let me know your thoughts/changes.

Derek

**Derek Bauer | Partner**  
**McKenna Long & Aldridge LLP**  
303 Peachtree Street | Suite 5300 Atlanta, Ga 30308  
Tel: 404.527.4195 | Fax: 404.527.4198 | [dbauer@mckennalong.com](mailto:dbauer@mckennalong.com)

**CONFIDENTIALITY NOTICE:**

This e-mail and any attachments contain information from the law firm of McKenna Long & Aldridge LLP, and are intended solely for the use of the named recipient or recipients. This e-mail may contain privileged attorney/client communications or work product. Any dissemination of this e-mail by anyone other than an intended recipient is strictly prohibited. If you are not a named recipient, you are prohibited from any further viewing of the e-mail or any attachments or from making any use of the e-mail or attachments. If you believe you have received this e-mail in error, notify the sender immediately and permanently delete the e-mail, any attachments, and all copies thereof from any drives or storage media and destroy any printouts of the e-mail or attachments.