

**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’S MOTION *IN LIMINE* TO EXCLUDE
TESTIMONY OF PLAINTIFF’S WITNESSES AT TRIAL**

NOW COMES Defendant LFP Publishing Group LLC, d/b/a *Hustler* Magazine (“LFP”), and respectfully moves this Honorable Court to exclude the trial testimony of Plaintiff’s husband, Paul Toffoloni, and her daughter, Sandra Toffoloni (collectively, the “Witnesses”).

First, Plaintiff did not provide the Witnesses’ names in her Initial Disclosures and did not supplement the Initial Disclosures to include the Witnesses’ identities pursuant to Fed. R. Civ. P. 26(a)(1), 26(e), and 37(c). Second, any testimony to be provided by the Witnesses would be irrelevant to the limited issues requiring the consideration of the jury in this case, and any probative

value their testimony might have is outweighed by the danger of unfair prejudice.

A brief in support of this motion is being submitted herewith.

WHEREFORE, for the reasons above and those set forth in the supportive brief filed herewith, LFP respectfully prays that this Court exclude the Witnesses because neither was timely disclosed; neither can offer relevant testimony; and because whatever probative value their testimony could possibly have is substantially outweighed by the likelihood of unfair prejudice to LFP.

Respectfully submitted this 20th day of May 2011.

/s/ Darrell J. Solomon

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CERTIFICATE OF SERVICE

This is to certify that I have this day filed the within and foregoing DEFENDANT'S MOTION *IN LIMINE* TO EXCLUDE TESTIMONY OF PLAINTIFF'S WITNESSES AT TRIAL 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 20th day of May 2011.

/s/ Darrell J. Solomon _____

Darrell J. Solomon

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