

**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 EVIDENCE

NOW COMES Defendant LFP Publishing Group LLC, d/b/a *Hustler* Magazine (“LFP”), and moves this Honorable Court to exclude the following pieces of evidence listed by Plaintiff in the Pretrial Order as items to be tendered at trial: (1) a DVD which was packaged and sold with newsstand copies of the March 2008 issue of *Hustler* Magazine (the “DVD”); (2) a Georgia Open Records Act request submitted by LFP to the Georgia Bureau of Investigation relating to crime scene photographs of murder victim Meredith Emerson, and testimony pertaining to LFP’s efforts to obtain images of Ms. Emerson (the “Emerson material”); (3) case law deciding prior legal actions filed against *Hustler* Magazine,

Inc. (the “Prior Actions”); and (4) a January 2008 article from the British tabloid, *The Sun*, titled, “Hustler print nude Nancy pics – SHOCKING topless photos of Chris Benoit’s murdered wife Nancy have appeared in an American pornographic magazine” (the “*Sun* article”) (collectively, the “Contested Evidence”).

The DVD, the Emerson material and the Prior Actions are irrelevant to the only issues to be tried in this case – the amount of compensatory damages, if any, to Plaintiff and whether punitive damages should be awarded – and any probative value they arguably have is substantially outweighed by the danger of unfair prejudice. The *Sun* article constitutes inadmissible hearsay within hearsay.

A brief in support of this motion and a request for hearing are 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 Contested Evidence from the record and direct Plaintiff to refrain from making any reference to them, either through counsel or witnesses.

Respectfully submitted this 23th 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 BRIEF IN SUPPORT OF DEFENDANT'S MOTION *IN LIMINE* TO EXCLUDE EVIDENCE 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 23th day of May 2011.

/s/ Darrell J. Solomon
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