

**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.)

Defendant.)

CASE NO. 1:08-cv-00421-TWT

SECOND MOTION TO AMEND THE PRETRIAL ORDER

Defendant LFP Publishing Group, LLC hereby moves to amend the Pretrial Order [D.I. 187] to withdraw one exhibit, and identify three additional exhibits LFP may use at trial.

An updated schedule of exhibits Defendant may use at trial is submitted herewith. Copies of each identified exhibit have been delivered to Plaintiff.

Defendant hereby withdraws its former Exhibit 16 (Composite Otten Ex. 9).

Defendant also seeks to supplement its exhibit list with the following materials:

33. Transcript of February 8, 2008 Hearing on Plaintiff's Motion for Temporary Restraining Order Before Hon. Thomas W. Thrash;
34. January 25, 2008 Letter from Paul J. Cambria, Jr. to Richard Decker;
35. January 29, 2008 Letter from Richard Decker to Paul J. Cambria, Jr.;
36. January 30, 2008 Letter from Paul J. Cambria, Jr. to Richard Decker.

Plaintiff is aware of and has had copies of each of these exhibits since at least February 2008, and will not be prejudiced by their late addition to Defendant's exhibit list.

A proposed Order is submitted herewith for the Court's convenience.

WHEREFORE, Defendant prays that this Court inquire into and sustain this motion, and enter an Order amending the pretrial order, D.I. 187, to reflect the changes to Defendant's anticipated exhibit list as described above and attached hereto at Exhibit A.

Respectfully submitted this 31st day of May 2011.

/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 SECOND MOTION TO AMEND PRETRIAL ORDER 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 31st day of May 2011.

/s/ S. Derek Bauer _____
S. Derek Bauer

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Defendant.)

CASE NO. 1:08-cv-00421-TWT

ORDER

Before the court is Defendant’s Second Motion to Amend the Pretrial Order. Upon consideration of Defendant’s motion, the Court grants the motion and **ORDERS** that the Pretrial Order [D.I. 187] is hereby amended to reflect the changes to Defendant’s exhibit list described in Attachment A hereto.

So ORDERED this ____ day of ____ 2011.

Hon. Thomas W. Thrash, Jr.
United States District Judge

ATTACHMENT A

Defendant's list of documentary and physical evidence

1	03/2006	<i>Hustler</i> Magazine, March 2006 (cover and article excerpt only)
2	12/2007	<i>Hustler</i> Magazine, Holiday 2007 (cover and article excerpt only) (LFP 0016)
3	01/2008	<i>Hustler</i> Magazine, January 2008 (cover and article excerpt only) (LFP 0017)
4	03/2008	<i>Hustler</i> Magazine, March 2008 (cover and article excerpt only) (LFP 0019)
5		Representative Entertainment Media Exhibit
6	10/03/08	Dismissal Order Issued by Hon. Thomas W. Thrash, Docket Index 13
7	03/2008	LFP Content and Pagination Report (LFP 134)
8	03/2008	LFP Internal Compliance Report (LFP 0035)
9	03/2008	LFP March 2008 Geographic Circulation Analysis
10	05/1983	<i>Sports Review Wrestling</i> , May 1983 (Otten Ex. 2)
11		Photo of Nancy Benoit used on the cover of <i>The Grapevine</i> (Otten Ex. 3)
12		Advertisement featuring Fallen Angel photographs (Otten Ex. 5)
13		“Fallen Angel” photographs (Otten Ex. 6)
14		Edited Advertisement featuring Fallen Angel photographs (Otten Ex. 7)

15		Nancy Benoit photographs taken from the Internet (Otten Ex. 8)
16	07/11/07	Email from Mark Samansky to LFP (LFP 0073 - 0074)
17	01/22/96	Independent Contractor Agreement between Nancy Benoit and World Championship Wrestling, Inc. (UWC 005 - 016)
18	01/16/08	Letter from Richard P. Decker to LFP Internet Group, LFP Video Group, and LFP Publishing Group
19		Sales figures (LFP 0099)
20		Operating Statement (LFP 0105)
21		Operating Statement (LFP 0106)
22		Operating Statement (LFP 0107)
23		Operating Statement (LFP 0108)
24		Operating Statement (LFP 0109)
25		Operating Statement (LFP 0110)
26		Operating Statement (LFP 0111)
27		Operating Statement (LFP 0112)
28		Balance Sheets (2006-2009) (LFP 0133)
29		Certified copy of the opinion and judgment in <i>Toffoloni v. LFP Publishing Group, LLC</i> , 572 F.3d 1201 (11th Cir. 2009)
30	03/29/11	Letter from Donna Hahner to Maureen Toffoloni
31	04/01/11	Letter from Richard Decker to Donna Hahner with enclosures
32	05/20/11	Issue of <i>Entertainment Weekly</i> magazine

33	02/08/08	Transcript of February 8, 2008 Hearing on Plaintiff's Motion for Temporary Restraining Order Before Hon. Thomas W. Thrash
34	01/25/08	Letter from Paul J. Cambria, Jr. to Richard P. Decker
35	01/29/08	Letter from Richard P. Decker to Paul J. Cambria, Jr.
36	01/30/08	Letter from Paul J. Cambria, Jr. to Richard P. Decker

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