

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SHEPARD FAIREY AND OBEY GIANT
ART, INC.,

Plaintiffs,

v.

THE ASSOCIATED PRESS,

Defendant and Counterclaim
Plaintiff,

v.

SHEPARD FAIREY, OBEY GIANT ART,
INC., OBEY GIANT LLC, STUDIO
NUMBER ONE, INC., and ONE 3 TWO,
INC. (d/b/a OBEY CLOTHING),

Counterclaim Defendants.

ECF

Case No. 09-01123 (AKH)

**COUNTERCLAIM DEFENDANT ONE 3 TWO, INC.'S NOTICE OF MOTION IN
LIMINE NO. 3 TO PRECLUDE PLAINTIFFS FROM RELYING ON ALTERED
IMAGES AT TRIAL**

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that upon the accompanying memorandum of law, Counterclaim Defendant One 3 Two, Inc. d/b/a Obey Clothing (“One 3 Two”) will move, before the honorable Alvin K. Hellerstein, United States District Judge at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl St., Courtroom 14D, New York, New York 10007, on March 16, 2011 at 10:00 a.m., to preclude Plaintiff The Associated Press (the “AP”) from manipulating the Garcia Photo and to exclude the altered image that the AP has relied upon throughout this litigation. One 3 Two moves on grounds that the issues for trial require the jury

to compare the Obama Image to the Garcia Photo as it was offered to the public, and use of an altered photograph would be inadmissible under Federal Rule of Evidence 403.

Dated: Los Angeles, California
February 25, 2011

Respectfully submitted,

By: /s/ Robyn C. Crowther
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