## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

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Plaintiff,

v.

THE ASSOCIATED PRESS,

Defendant.

Civil Action No. 05-145J

## MOTION IN LIMINE TO LIMIT PLAINTIFF TO TWO STATUTORY DAMAGE AWARDS UNDER THE DIGITAL MILLENNIUM COPYRIGHT ACT

Defendant The Associated Press ("AP") through its undersigned counsel, for the reasons

set forth in the accompanying memorandum, respectfully moves this Court in limine for an Order

limiting Plaintiff to a total of two statutory awards if she prevails on both of her claims under the

Digital Millennium Copyright Act.

Dated: May 4, 2007

Respectfully submitted,

LEVINE SULLIVAN KOCH & SCHULZ, L.L.P.

By: <u>/s/ Robert Penchina</u>

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Gayle C. Sproul (I.D. No. 38833) Michael Berry, I.D. No. 86351 (*Pro Hac Vice*) 2112 Walnut Street, Third Floor Philadelphia, Pennsylvania 19103 (215) 988-9778 (215) 988-9750 (Fax)

Attorneys for The Associated Press

## **MOTION IN LIMINE CERTIFICATE**

I HEREBY CERTIFY that despite the reasonable and good faith efforts of the parties to this action to reach agreement concerning the issues raised by this motion *in limine*, the parties were unable to reach such an agreement.

/s/ Robert Penchina Robert Penchina

## **CERTIFICATE OF SERVICE**

I, Michael Berry, hereby certify that on this 4th day of May, 2007, I caused to be served a true and correct copy of the foregoing Motion *in Limine*, as well as the Memorandum in support thereof and accompanying Proposed Order, via the Court's ECF system, upon the following counsel of record:

Paul K. Vickrey Douglas M. Hall Kara L. Szpondowski Niro, Scavone, Haller & Niro 181 West Madison, Suite 4600 Chicago, Illinois 60602-4515

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> /s/ Michael Berry Michael Berry