

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

_____)	
VALENCIA M. MCCLATCHEY,)	
)	
Plaintiff,)	
)	Civil Action No. 05-145J
v.)	
)	
THE ASSOCIATED PRESS,)	
)	
Defendant.)	
_____)	

**MOTION IN LIMINE TO EXCLUDE CERTAIN DOCUMENTS
AND TESTIMONY REGARDING ALLEGED THIRD-PARTY INFRINGEMENTS**

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 excluding documents and testimony concerning certain alleged infringing uses of Plaintiff’s photograph made by third parties.

Dated: May 4, 2007

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

By: /s/ Robert Penchina

Robert Penchina (*Pro Hac Vice*)
321 West 44th Street, Suite 510
New York, NY 10036
(212) 850-6100
(212) 850-6299 (Fax)

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

John E. Hall
Eckert Seamans Cherin & Mellott, LLC
USX Tower
600 Grant Street, 44th Floor
Pittsburgh, Pennsylvania 15219

/s/ Michael Berry

Michael Berry