

CADET MURDER CASE IMAGE SUIT IS SETTLED

A copyright lawsuit filed in U.S. District Court in Dallas, Texas against more than a dozen media defendants has been settled for a confidential amount. The plaintiff, a Dallas “glamour shots” studio, alleged that it owned the rights to the portraits of the victim in the high-profile *Cadet Murder Case*, and that numerous newspapers, agencies, and television companies were not entitled to use the image without paying license fees.

A few weeks prior to the December, 1995 murder of Adrienne Jones in Plano, Texas, the girl’s mother had arranged for a portrait session with Texas Hot Shots, doing business as Hot Looks, Inc. Subsequently, when the bizarre circumstances of the love triangle murder, and the fact that the couple charged (and eventually found guilty) had been accepted to prestigious military academies, became highly-publicized, the “glamour” portraits of Jones were suddenly in great demand.

Houston attorney Dana LeJune was retained by Hot Looks to recoup license fees for the wide-spread use of the photographs which had been made available to the media by Jones’s mother. The media defendants tried to get the mother to cooperate in their defense of the copyright claims by having her deny publicity rights to Hot Looks. LeJune argued that while some states do allow the publicity rights of a person to survive his or her death, in Texas the right is not automatic. An heir may register the claim to the publicity rights with the Texas Secretary of State, but that must be done within one year of the death. After one year, all claims to publicity

rights are waived. Because Jones’s mother had not registered the claim within the year, Hot Looks was the only entity which could charge for use of the portraits of Adrienne Jones following her tragic death.

The news media defendants raised the “news reporting defense” under fair use, arguing that because they were reporting news, and to adequately convey the ideas within the story, they had to use Jones’s portraits.¹

However, LeJune argued that while the media defendants could have used many other images of Jones, including snapshots of her in her high school cheerleading outfit, they chose not to do so. “The primary reason they chose to use the obviously professional portraits is that they were sexy, glamorous and rendered the love triangle gone awry byline much more sensational than it would otherwise have been,” said LeJune. “Thus, the images’ use was much more profitable to the defendants, and not protected by fair use.”

The amounts of the settlements were not disclosed; a spokesman for Hot Looks was permitted to say only that the settlements were “very satisfactory.” Photographer and stock photography agent Jim Pickerell of Maryland was the expert witness for Hot Looks.

¹ Profit motivation can also negate fair use under the news-reporting portion of the exception. Because the facts can be copied in a broadcast without the need to reproduce the expression, a claim that the image used is newsworthy does not necessarily validate a fair use. — Peter Skinner