



NY photogs deny wrongdoing over nude Monroe pics

By SAMUEL MAULL – Oct 1, 2008

NEW YORK (AP) — A lawyer for two photography professionals says seven nude and seminude Marilyn Monroe photos that are the subject of a lawsuit were found in curbside garbage nearly 35 years ago.

In this photo provided by Weingrad & Weingrad LLP, a copy of a transparency showing actress Marilyn Monroe made in Los Angeles in July, 1962 is shown. Photographer Bert Stern is suing two men to force the return of seven nude and seminude pictures of Marilyn Monroe he says were stolen from him. (AP Photo/Bert Stern)

The pictures were part of a series shot by Bert Stern at the Bel Air Hotel in Los Angeles in 1962 while he was on assignment for Vogue magazine. The series is known as "The Last Sitting" and was shot six weeks before Monroe was found dead from an overdose of drugs.

The photos show Monroe in various gently erotic poses behind a piece of transparent white gauzy fabric. The shots were recreated by Stern in a February 2008 photo session with actress Lindsay Lohan.

The 78-year-old Stern claims in a lawsuit filed last week that some of the Monroe film was stolen after it was loaned to now-defunct Eros magazine in the summer of 1962.

Attorney Jamie Brickell said Wednesday that his clients, photo retoucher Michael Weiss and photo printer Don Penny, did nothing wrong. He said their acquaintance Bob Bryan found the film in a pile of garbage in Manhattan in 1973 or '74.

Brickell said Penny was 7 and Weiss and Bryan were teenagers when Stern shot the Monroe photos and none of them had any connection with Eros, whose explicit content dealt with sexual history, art, politics and literature.

Brickell said that during a conversation about the film transparencies, Penny mentioned that he knew Stern's brother and offered to arrange an introduction.

The lawyer denied his clients asked Stern for money as he claims. He says they only asked for print copies from the film that Bryan found and offered to pay all costs if they were allowed to process the film themselves.

Brickell said Stern told them he would control processing and they agreed that under this arrangement Stern would pay processing costs. He said his clients have voicemail and e-mail messages recording the terms of their agreement.

Stern's lawyer, Stephen Weingrad, said he would respond to Brickell later.

Weingrad said his client learned the photos were being held by Weiss and Penny when they contacted him a few months ago and offered "to do a deal."

The men gave Stern two of the photos so he could authenticate them, but they said he would have to pay for the others, Weingrad said.

The lawyer said that after negotiations broke down because the men were too "greedy," Stern requested the return of the other pictures. They refused, so he sued, Weingrad said.

Brickell said that Weiss and Penny "fulfilled every agreement and condition reached at every step of the negotiations" and that money was never an issue.

Stern's lawsuit accuses Weiss and Penny of unlawful possession of his property and unjust enrichment. Stern says he wants at least \$700,000 for the value of the photographs and \$1 million in punitive damages and legal fees.