

The Case of the Plucky Porker

In the “Case of the Plucky Porker” we will explore the parameters of the false light branch of the right of privacy. Yes, I make up the case titles, but I don’t make up the case names (here, *Braun vs. Flynt*), nor do I make up the facts of the case.

The Plucky Porker court wrestled with the issue of whether the publication of a photo of a woman in a “men’s magazine” without her permission constituted a false light invasion of privacy.

Chic, a Larry Flynt publication (Mr. Flynt also publishes *Hustler* magazine), published a photo of Jeannie Braun in the “Chic Thrills” portion of the magazine. Ms. Braun was a novelty performer who performed an act with Ralph the diving pig at Aquarena Springs Amusement Park in San Marcos, Texas. The photo showed “Ralph, in good form, legs fully extended, tail curled, diving toward Ms. Braun.” The caption under the photo said, “SWINE DIVE – a pig that swims? Why not? This plucky pig performs every day...Staff members say the pig was incredibly easy to train. They told him to learn quick, or grow up to be a juicy ham sandwich.”

On the same page were stories about “10 Things that P off Women” and “Mammaries are Made of This.” Photos of nude women appeared throughout the magazine.

Ms. Braun learned of her inclusion in *Chic* when she stopped at a drive-in grocery store and a stranger walked up to her and said, “Hey, I know you.” He recognized Braun from her picture in *Chic*. Now this is wrong on so many levels. If you read *Chic* don’t admit it and if you see a *Chic* girl don’t say that you recognize her from the magazine. Or, you could simply admire the honesty of people from small towns in Texas.

Jeannie Braun was not flattered by the recognition. She sued Larry Flynt and *Chic* for false light invasion of privacy. She argued that the picture placed her in a false light in that her picture was included in a magazine devoted to the depiction of “unchastity in women.”

The jury found for Ms. Braun and the appellate court agreed that “common sense dictates that the context and manner in which a statement or picture appears determines to a large extent the effect it will have on the person reading or seeing it.” In other words, the inclusion of Braun’s photo in a magazine devoted to depicting unchaste women will place her in the false light as an unchaste woman. Kind of like a birds of a feather flock together argument.