

Stripped of Legal Rights

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December 2, 2006

My junior year of college, six buddies and I roomed together in our first house off campus. It was a very nice two-story house with a tiny kitchen but a nice sized living room. We were also excited to put up our own Christmas tree. When we finished decorating it, my roommate's girlfriend grabbed her camera to take a picture of the seven of us in front of our tree.

I was honored when my roomies asked me to stand in the front of the photo, but was quickly dismayed as one of them standing behind me whipped down my flannel pajama pants just as she snapped the picture. To make matters worse, one of my roommates was a journalism major who had access to a darkroom, so they were able to make dozens of prints of my racy photo.

Ironically, many of these pictures adorned our Christmas tree. No matter how many I took down and shred, more would surface the next day. One day, however, my folks dropped by unexpectedly on their way to Minneapolis to go Christmas shopping. I never saw so many typically sluggish college guys move so quickly to un-decorate a tree.

I learned you can become quite motivated when you're desperate. One housewife suddenly became desperate after over 200 nude photos of her were recently uncovered.

Marcia Cross, who plays Bree on 'Desperate Housewives', inadvertently threw away the risqué photographs. Living every sanitation engineer's dream, a very thorough employee of the garbage hauler found the pictures. He quickly hired David Hans Schmidt, broker of scandalous celebrities photos and videos, to sell Cross's photos to the highest bidder.

Naturally, Cross and her husband, Tom Mahoney, immediately called their attorneys to try and get the photos back. The attorneys have threatened filing suit, however, they may have an uphill battle.

One claim Cross's attorneys may make is that the pictures are legally her personal property that the garbage collector has no right to sell. Unfortunately for Cross, the laws of her home state of California, like most states, holds that once a person puts something in the trash, they no longer have any reasonable expectation of privacy. Even if the item is in a garbage can or bag waiting to be picked up, the law states that the disposer has relinquished any property rights they may have had to the garbage's contents.

Cross's lawyers may also allege that Cross owns the intellectual property rights to the photos and any republishing of them would be a copyright infringement. Typically, the photographer owns the copyright to a picture, so only if Cross or Mahoney took the shots or acquired the rights to them could they seek to prevent infringement.

Even if Cross does own the copyrights to the photos, it is unlikely they registered them with the U.S. Copyright Office, and if she didn't keep any copies, she no longer has any to put on file now.

Therefore, if the couple wants to keep the photos from being published, their best bet may be to buy them from Schmidt themselves.

I think that strategy would also work well in my situation. However, in my case, I'm lucky (and yet somewhat disappointed) that no one else is willing to pay for the nude photo of me.